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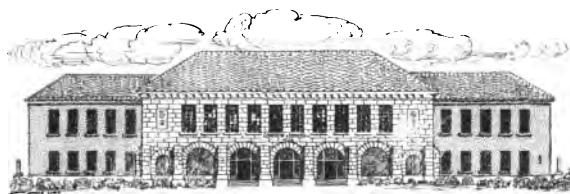
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# A CIVICS FOR ELEMENTARY SCHOOLS

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## PREFACE.

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The little treatise here presented is based upon a well-tried plan successfully used in the class room, the idea being to explain the features of the Constitution by means of facts within the student's knowledge of United States history, told in language suitable to his comprehension. It has been found that the spirit of investigation awakened in this way holds the pupil's interest in the subject and spurs him on in the study both of his history and civics. That the book may aid in making good citizens is the wish of

THE AUTHORS.



# A CIVICS FOR ELEMENTARY SCHOOLS.

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## CHAPTER I.

### GOVERNMENT IN THE AMERICAN COLONIES.

**Formation and Growth of Government.**—The chief cause that led the colonists from England to leave their native land and seek homes in a new and unsettled country was dissatisfaction with the home government.

If we trace the formation and growth of the governments established by these people in the new country—growth which finally resulted in the Government of the United States under the Constitution—we shall have a fair understanding of the principles of our present government. We shall also learn that a government is not the product of the brain of one man or of the deliberation of a group of men; on the contrary it is a gradual growth, resulting from a long series of events.

**Early Colonial Governments.**—Let us glance at some of the early governments of the colonies and note briefly their weak points, which subsequently had to be modified, at the same time learning the results of the change.

It will be remembered that the first settlers of Massachusetts limited the privilege of voting to church members, thus making religion a test of citizenship. In Virginia, the early governors were appointed by the Crown, and, with the exception of John Smith, were weak and corrupt. In Georgia, the last of the colonies settled, the whole government at first was in the hands of a few of the wealthier people, the common people having no vote whatever.

In New Jersey, after 1702, the governor and the council were appointed by the king. The assembly only was elected by the people—and these men held office for an indefinite time. The laws passed by the assembly and the council were of no avail if the governor failed to sign them; and even after he had approved them, the king could refuse to sanction them. This refusal by a governor to sign bills passed by a law-making body is called a *veto* (I forbid). The courts in New Jersey were established by the governor and the council, and the decision of these courts could be sent to England for final decision. A member of the elected assembly was required to have a certain amount of property, and a voter was also required to possess property.

**The Three Functions of Government.**—From this simple outline of the government of New Jersey we observe that there are three parts or functions of government: first, the body of men who make the laws, these being called the legislature; second, the governor or executive, who executes or enforces the laws; third, the courts, who interpret or tell the meaning of the law.

These three parts or functions are necessary to complete any good government. If the legislature should pass a law making cruelty to children a crime the governor would execute the law through an officer, who would arrest the person charged with cruelty, and the courts would decide whether the law had been violated, by fully interpreting it as to this particular case.

**The Connecticut Charter.**—Most of the colonies had a form of government more or less like this one of New Jersey at some period of their colonial existence. The Colony of Connecticut, however, had a more liberal set of laws. This was a direct result of the oppressive nature of the Massachusetts laws. People from Massachusetts emigrated to Connecticut in 1635, because they were dissatisfied with the church qualification for voting. They drew up a set of laws which permitted the people to elect the governor and members of the senate and the assembly. The members of the senate were the same as members of the council in other states. The legislature organized the courts, and the governor saw that the laws were enforced. This original set of laws was substantially approved in the form of a charter by the king and was more liberal than the charter of any other colony.

Having left England because of oppressive laws, the colonists were continually on the outlook to maintain the rights they had obtained and for which they had made so many sacrifices. England, however, did not always respect the wishes of the colonists.

**Unjust Acts of Parliament.**—The English Parliament passed many laws affecting the American colonists without consulting or considering the legislative bodies of the colonies. Some of these laws were very oppressive, as the Stamp Act, which was intended to raise money from the colonists, but gave them no voice in spending the money so obtained. The Quartering Act obliged the colonists to support soldiers in a manner subversive of individual rights.

One of the most remarkable sets of laws passed by Parliament is known as the Navigation Acts. These Acts were remarkable in that they took from the colonists, in the important matter of commerce, all three functions of government—the legislative, the executive, and the judicial.

**England Usurps Functions of Government.**—In passing these Acts, Parliament deprived the colonists of some of their legislative rights, by limiting the right to ship American products in English vessels only, and forbidding the colonists to bring goods into America except through England, thus giving English merchants an unnecessary profit on the merchandise.

In enforcing these obnoxious laws, England usurped the executive function of the colonists, by having the American coasts patrolled by her warships and arresting people who imported goods in violation of the navigation laws. She then tried the people thus captured in her own admiralty courts, thus taking away the judicial function from the colonists.

People who were courageous enough to make homes in a

wilderness would not be long imposed upon by laws like these without making a struggle.

**War for Independence Shows Necessity of Union.** — The struggle which ensued we know as the American Revolution or War for Independence. The experience gained from these English laws, largely aided the future American nation in forming their own government. This will be made manifest as we proceed, if we note the care the people used in avoiding the obnoxious features of the colonial system, at the same time taking into their government what was good in the system of laws in England, despite their differences with the mother country. Much of the judicial function of our country to-day is founded on that part of the English system, known as the Common Law of England. The Common Law in great part is made up of the early customs of the people in their intercourse with one another. When the clash came between the people and the executive power of England in the form of the British Army, it was immediately appreciated by the colonists that some sort of union was necessary; and to govern a union some set of laws must be recognized by those who form it.

**Shall the Union be Strong or Weak?** — An army and a navy had to be organized. These must be fed and cared for. To do this required money. Without united effort on the part of the colonies these results were impossible. During the war the idea of union did not go much beyond what was needed to accomplish these results. While some of the wisest of the statesmen of that period

stroved for a strong, united government, the colonies were jealous of one another, and were competitors and opponents in everything except opposition to the common enemy—England.

The remark of the statesman, Patrick Henry, of Virginia, "I am not a Virginian but an American," shows the sentiment of but few of the people at that time.

In 1778, the French minister, Gerard, wrote to France, "The States of the South and of the North, under existing subjects of estrangement and division, are two distinct parties." This expresses the condition of mind of the people at large concerning close union.

**First Continental Congress.**—In 1774, an effort was made by the colonists, in a Congress held at Philadelphia, to obtain from England their rights. This Congress consisted of delegates from all the colonies except Georgia. It met September 5, 1774, resolved that obedience was not due to any of the recent acts of Parliament, and adjourned to May 10, 1775. When it assembled on that date at Philadelphia, hostilities had commenced. "The shot heard round the world" had been fired at Lexington.

This Congress, without any express authority from the colonists, carried on the war, borrowed money, made treaties with foreign governments, and, in fact, assumed all three functions of government—legislative, executive, and judicial—till the adoption of the Articles of Confederation by all the States, in the year 1781, made the League of States.

**Articles of Confederation.** — The members of the Continental Congress, as early as 1776, felt that some form of united government should be adopted by the states; but it was not until 1781 that the states could be induced to consent to placing any of their powers as independent governments in the hands of a central government.

And when this form of government was finally assented to by the adoption of the Articles of Confederation, it was no improvement upon the old method of government by the Continental Congress, which body worked without any written agreement of the states.

The requests of the Congress to the states for men and money were granted or not, as the states saw fit. During the war, the states, inspired by patriotism, put forth their utmost efforts in aiding Congress, as their agent, to expel the common enemy. When the war was practically ended by the surrender at Yorktown, the states, not being held together for mutual protection from invasion, resumed their old jealousies; and it will be readily understood that a strong set of laws was necessary to hold them together.

**Weakness of the Articles of Confederation; Mutiny.** — A glance at the history of this period will show whether or not the Articles of Confederation were satisfactory. The fatal defect of the Articles was that from them was omitted entirely the executive governmental function. On June 2, 1783, a few soldiers of the Continental army drove the whole Congress from Philadelphia to Princeton. There being no executive authority to act, the members of

Congress were obliged to flee for their lives from a small band of mutinous soldiers.

**Rebellion ; Interstate War.**—A rebellion broke out in Massachusetts, in 1786, under Daniel Shays, and Congress had no power to put it down. Pennsylvania drove a number of Connecticut settlers in the Wyoming Valley into the woods to starve ; and at one time war was threatened between these two states. During this period, New York sent troops to the New Hampshire boundary to settle a dispute concerning territory, and Congress, lacking the executive function, was powerless to act.

**No Taxing Power.**—Another omission in the Articles was that of the power to tax, and without this power Congress could raise no money. Its only resource was to ask the states for money, and the states often neglected to give their respective shares.

In the treaty which was signed at the conclusion of the Revolutionary War, the United States agreed to pay certain debts to British subjects ; but having no money, nor power to raise it, they could not meet their obligations. England, using this as an excuse, refused to give up many of the western fortifications, and part of our territory was still occupied by a foreign nation.

**No Power to Regulate Trade.**—The Congress had no power to regulate trade between the states, and this resulted in confusion. New York State placed a tax on firewood from Connecticut, and on farm produce from New Jersey, forcing the farmers to pay duties on the

chickens, pigs, and garden produce they brought to New York City. New Jersey retaliated by taxing a lighthouse \$1,800 a year, which New York State had built on New Jersey soil. This lighthouse was necessary for the safe entrance of vessels into New York harbor.

**No Permanent Judiciary.** — There was no provision in the Articles for a permanent court, thus omitting the judicial function of government.

**No Power to Make Treaties.** — Foreign nations would make no treaties with the United States, as there was no power to enforce the treaties; and, as was aptly said by European nations, they did not know, when they were dealing with our representatives, whether they were dealing with one nation or with thirteen states.

The people could not help but observe the weakness of the government at that time, as it was unable to protect the people at home, and was held in contempt by the nations abroad. These being the conditions, Congress, in 1787, urged the states to hold a representative convention "for the sole and express purpose of revising the Articles of Confederation."

**Constitutional Convention.** — When delegates to this convention assembled in May, 1787, they came to the conclusion that no amendments or alterations which they could make to the Articles of Confederation would give a good government.

These delegates saw, as we have seen, that two of the three functions of government were entirely wanting in the

Articles, and they concluded that it would be preferable to draw up a new set of laws embodying all three functions of government than to try to add so many new features to Articles already tried and found wanting.

The Convention pursued its deliberations behind closed doors, free from the influence of popular clamor, and finished its work September 17, 1787. The result of these careful deliberations is the Constitution of the United States. This was sent to the Continental Congress then sitting in New York City; the Continental Congress transmitted copies to the several states for their ratification.

**Ratification of the Constitution.**—During the next few months conventions met in most of the States for the purpose of ratifying the Constitution, and by July 26, 1788, all the States, except North Carolina and Rhode Island, had ratified it.

These two States came into the Union later: North Carolina on November 21, 1789, and Rhode Island on May 29, 1790.

The Convention set forth very concisely in the following preamble the reasons for establishing the Constitution:

“We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

**Perfect Union and Justice.**—The wise men who met at Philadelphia, understood the necessity of a "more perfect union" because foreign nations had refused to make treaties with us until we were united; hence these words in the preamble. Under the old Articles the judicial function of government was practically omitted, and the delegates, therefore, learned from this weakness that they must "establish justice" by providing a system of courts.

**Domestic Tranquillity.**—The strife between Pennsylvania and Connecticut, the troubles on the New York State boundary, and Shays' Rebellion most emphatically warned them to do something "to insure domestic tranquillity."

**Common Defense.**—The fact that English troops still occupied some of our western forts was a notice to them "to provide for the common defense."

**General Welfare.**—The power exercised by the several states of putting duties on the products of sister states, and the ensuing quarrels among themselves, did not "promote the general welfare." This also was to be an aim of the convention in its work.

**Security of Liberty.**—The people appreciated that they had wrested liberty from England, but under the Articles there was very little prospect of their keeping it. The grand purpose of the convention is summed up in the words, "secure the blessings of liberty to ourselves and our posterity."

The Constitution has been in force for more than one

hundred years. Acting under it as a set of laws for its regulation, the United States Government has taken its place among the nations of the earth, and has carried out during these years all the functions of an independent government.

It has made treaties with foreign countries, it has carried on wars, established lighthouses, protected its coasts, constructed public works and buildings, provided a post-office, fixed a sound money currency, and has performed all the duties of a great and strong government.

If then, we examine the effect of this Constitution on the history of the government, as the lapse of years tells the story, we shall have not only a knowledge of our own government, but a knowledge of the general principles of government; for all good governments are founded on the same general principles.

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## CHAPTER II.

### THE HOUSE OF REPRESENTATIVES, OR LOWER HOUSE OF CONGRESS.

Each state in the Union has a constitution similar to the United States Constitution, and counties and towns, in their governments, have the foundation principles that may be discovered here.

The Convention divided the government into three departments or functions — the legislative, the executive and the judicial — and carefully described each department by laying down in detail how the department is to be made up, what its duties are, and the qualifications of the persons in each department.

As laws must be made before they can be either executed or judged, the first Article of the Constitution deals with the legislative function. We will examine this Article to discover how the people avoided the errors of the old government, and also to learn how the Article has worked as a law in actual practice.

#### ARTICLE I

*Section 1.* "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

By "powers herein granted" the Constitution refers to

powers given to the United States by the states. For instance, one of the powers so granted is that of declaring war. This power which we see is vested in Congress was exercised by Congress when in 1812 it declared war with England and in 1898, when war was declared against Spain.

*Section 2.* 1. "The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the elector in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The members of the House of Representatives are the only officials of the United States elected directly by the people, the term of office being two years.

**Qualifications of Voters.**—The qualifications of the electors, or voters, may differ in different states, according to the qualifications of the voters for the most numerous branch of the legislature in the different states. Each of the states has a legislative body similar to Congress, one branch being more numerous than the other.

We may observe how the qualifications of voters differ in different states by noting that in Massachusetts voters are required to read, in Georgia persons otherwise qualified are excluded from voting if their taxes are not paid. In some states citizens only are allowed to vote, while in others a person declaring his intention to become a citizen is allowed to vote. In all states, however, residence for

a certain time is required. Attention is here called to the distinction between a citizen and a voter: The state determines the qualifications of a voter, and we shall learn in a subsequent clause of the Constitution that the United States determines the qualification of citizenship. It is well that this is so, as the United States is bound to protect its citizens at home and abroad, and, therefore, should have the sole right of defining citizenship.

*Section 2. Clause 2.* "No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen."

As each Representative has one vote, the reason why he should be an inhabitant of the state that sent him to the Congress is evident; as, living in the state, he would represent its people better than a non-resident who would be ignorant of its wants.

*Clause 3.* "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made

within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall at least have one Representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three."

**The Census.**—This enumerating, or counting, of the people is called the census. The first census was taken in 1790, and a census has been taken every ten years since. As a result of the first enumeration the House of Representatives, from 1793 to 1803, consisted of 105 members, allowing one for every thirty-three thousand.

**Number of Representatives in Lower House.**—Congress has lowered this ratio of representation at each census since the second, until by the census of 1900 the ratio is one Representative to 194,182 persons; for, had these changes not been made, the number of Representatives in the Congress would be too great to do any legislative business. The last census, in 1900, showed our population to be about seventy-five millions. If the ratio of one

Representative for each thirty thousand had been continued the House of Representatives would to-day consist of more than 2,500 men, a number far too great to act harmoniously and promptly on the nation's business.

The words, "three-fifths of all other persons," refer to slaves, and are thus explained: If a state contained twenty-five thousand free persons and fifteen thousand slaves, its census, for the purpose of representation and direct taxes, would be twenty-five thousand free persons plus three-fifths of fifteen thousand slaves—nine thousand: a total of thirty-four thousand.

As slavery has been abolished by the thirteenth Amendment, the part of the clause referring to slaves is not now in effect.

**Taxes—Direct and Indirect.**—Taxes are the sums of money the people give the government to pay the expenses of carrying it on. The judges must be paid, the public property cared for, the army and navy provided for. The public works for the general welfare all require money for their maintenance, and this money comes from the people in the form of taxes.

Taxes are of two kinds, direct and indirect.

By "direct taxes," referred to in this clause, is meant those taxes paid by the people directly to the tax collector of the government, as when a house owner pays to the collector annually a sum of money as taxes on the house he owns. Congress has successfully levied direct taxes in 1798, 1813, 1815, 1816, and 1861. The government is supported almost entirely by indirect taxes. There is a

tax on sugar brought into this country. The tax the importer of sugar pays to the government is added to the price of the sugar before he sells it to the people, and thus by paying the increased cost of the sugar, the people indirectly pay the tax. By means of these indirect taxes on imported goods, and also on wine, beer, spirits, and tobacco, the United States raises millions of dollars annually.

*Clause 4.* "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies."

When a Congressman dies, resigns, or is expelled, the Governor of the state which he represents causes another election to be held to fill the Representative's unexpired term.

*Clause 5.* "The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment."

**The Speaker and Other Officers of the Lower House.**—The Speaker is the presiding officer of the House. His importance is increased from the fact that he alone appoints the standing committees to which are referred all bills that are proposed to be passed.

The other principal officers of the House of Representatives are: Clerk, Sergeant-at-Arms, Door-keeper, Official Reporter of Debate, Postmaster, and Chaplain. The Clerk presides at the meeting of Congress previous to the

election of the Speaker, and, after the organization of the House, performs all the duties of a clerk and secretary. He has a force of assistants.

The Sergeant-at-Arms represents the authority of the House, quells any disorder that may arise during the sessions, and searches for and brings in members that, for any reason, try to avoid attendance at a session. The Door-keeper has charge of the entrance to the House, and admits only those who are entitled to enter. The Reporter of Debates takes down the proceedings for use in the *Congressional Record*. The Postmaster looks after the mail of the members. The Chaplain offers up prayer at the opening of the sessions of the House.

Each state of the United States has a popular Assembly, or lower house, of its legislature, which has practically the same kind of officers.

**Impeachment.**—When a person is impeached for a crime, it is the same as saying he is accused of the crime. The House of Representatives has the sole power of accusing, or impeaching, by majority vote, any of the civil officers of the Government. Later, we shall learn that the Senate has the sole power to try the persons that the House impeaches or accuses.

The same method is followed in dealing with accused officials as is employed against accused citizens. In the first the House indicts, or accuses, the official, and the Senate tries him; in the second the grand jury indicts the citizen, and the petit jury tries him.

The most important case of impeachment is that of

President Johnson in 1868. On being tried by the Senate he was acquitted.

Other important impeachments are: (1) William Blount, United States Senator from Tennessee, for conspiring to transfer New Orleans from Spain to Great Britain, 1797-8; acquitted for want of evidence. (2) John Pickering, United States District Court Judge for the District of New Hampshire, charged with drunkenness, profanity, etc.; convicted, March 12, 1803. (3) Judge Samuel Chase; acquitted, March 1, 1805. (4) Judge James H. Peck, District Judge of United States Court of the Missouri District, for arbitrary conduct; acquitted, 1830. (5) West H. Humphreys, Judge of United States District Court of Tennessee; impeached and convicted for rebellion, 1862. (6) W. H. Belknap, Secretary of War, impeached for receiving bribes from post traders among the Indians March 2, 1876. He resigned at the same time; acquitted for want of jurisdiction. (7) Charles Swayne, District Judge of the United States for the Northern District of Florida, impeached "of high crimes and misdemeanors in office"; acquitted, Feb. 27, 1905.

### CHAPTER III.

#### THE SENATE, OR UPPER HOUSE OF THE CONGRESS OF THE UNITED STATES.

*Section 3. Clause 1.* "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote."

We have learned that the number of votes that each state has in the House of Representatives depends on the population of the state. New York, to-day, has thirty-seven votes, and Delaware only one.

**Independence of the Senate.**— This apportionment of Representatives has the tendency to give the larger states more power than the smaller, but this is to a great extent overcome by giving each state two voters in the Senate; and the Senators, being elected for six years, are more independent of popular clamor, as their re-election does not depend so much on following the popular outcry. For these reasons, the Senate acts as a check on the House of Representatives. An instance of this is the passing of the "Wilmot Proviso" by the House of Representatives, in 1846. It failed to pass the Senate. The House which passed the bill had just been elected by the people, whereas many of the Senators had been in office for four years, and some of them for nearly six.

The Senators are chosen by the Legislature of the state they represent, as it is thought they are thus removed from popular influence. Many statesmen to-day, however, think it would be wiser to have the Senators elected directly by the people.

*Clause 2.* "Immediately after they shall be assembled, in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year, and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

This manner of grouping the Senators was adopted so that there should always be some experienced Senators in Congress, which might not be the case if the term of all expired at once.

In order that no state may be deprived of a vote in the Senate, even when its legislature is not in session, the Governor of each state is given the power, in case a vacancy occurs in his state representation, to appoint a Senator to act till the legislature meets.

*Clause 3.* "No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen."

The age of qualification of a Senator was increased over that of a Representative, as it was desired to have men of riper judgment in the Senate.

*Clause 4.* "The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided."

It would not be fair to give the Vice-President a vote as he is not elected to represent any particular state in the Senate.

*Clause 5.* "The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States."

The principal "other officers" of the Senate are a Secretary, Chief Clerk, Sergeant-at-Arms, Postmaster, Reporters of Debates, Door-Keeper and Chaplain. The President *pro tempore* does not lose his vote in the Senate.

*Clause 6.* "The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief

Justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the members present."

**Powers and Duties of the Senate in Impeachments.**

— In other impeachments than that of the President, the Vice-President presides. As he would succeed the President in case of a conviction it would be unjust to have him take any part in the President's trial. When President Johnson was tried by the Senate after being impeached by the House, Chief Justice Chase presided. There was one vote less than two-thirds of the members present for conviction, in consequence of which President Johnson was acquitted.

*Clause 7.* "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law."

If the Senate should find a civil officer guilty of treason, he could not be put into prison or otherwise punished as a result of this. He could, however, be tried by a United States Court, and if found guilty, could be hanged.

**Trial by Court-Martial.** It will be noticed that the power of impeachment refers only to civil officers. Officers in the Army and Navy are tried by a court-martial accord-

ing to laws made by Congress. A court-martial consists of a number of officers of higher rank than the accused. The finding or verdict of the court-martial in regard to officers is finally passed upon by the President of the United States, he being Commander-in-Chief of the Army and Navy. If he approves of the verdict, it stands; if he disapproves, the findings are of no effect.

Probably the two most noted trials by court-martial are, (1) that of General Charles Lee, who was tried for disobedience of orders and disgraceful conduct at the battle of Monmouth, in the War of the Revolution; and (2) that of General W. Hull, who was convicted of cowardice in surrendering Detroit to the enemy in the second war with England.

## CHAPTER IV.

### ELECTION, POWERS, DUTIES, PRIVILEGES AND DISABILITIES OF SENATORS AND REPRESENTATIVES.

*Section 4. Clause 1.* "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

**Manner of Electing Senators.**— In 1865, Congress passed a law to regulate the times and manner of choosing Senators: the time of election is the second Tuesday after the meeting and organization of the Legislature, and the Senator is chosen by a majority of all votes in both Houses of the Legislature, they having met together for this purpose. In 1781, Congress enacted that all Representatives should be voted for by written or printed ballots.

As the State Legislature meets at the capital of the state, it would be unfair to give Congress the power to change the place of meeting of the Legislature, as this, to a certain extent, would be changing the capital of the state. Hence the exception is made in the clause regarding the place of choosing Senators.

*Clause 2.* "The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day."

By this clause Congress is obliged to assemble once every year; sometimes it has met more than once a year in regular session. We shall learn in Article II. that the President has power to cause it to assemble in special session when he deems it necessary.

*Section 5. Clause 1.* "Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide."

When a person is elected a member to either House of Congress, the state he represents gives him a certificate of election. The House to which he is elected has sole power to determine whether he has been lawfully elected and whether he is qualified to be a member.

In 1865, immediately after the Civil War, each House refused to admit as members any of the persons elected by the eleven states that had seceded.

A majority is more than half; neither house can do any business unless a quorum of more than half is present.

**Attendance of Members.**—Under the Articles of Confederation the Congress had no power to compel members to be present. This clause in the Constitution gives less than a quorum power to compel the attendance of members, and also to punish them for non-attendance, thus insuring that the legislative business of the nation will be attended to. It has happened several times that some members have endeavored to prevent bills being passed, by absenting themselves and leaving no quorum in the House. The Speaker has then used the authority of the House to compel their attendance by sending the Sergeant-at-Arms after them.

*Clause 2.* “Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.”

**Rules and Proceedings of Each House.**—There must be rules to govern the conduct of each individual in a body of men assembled to do business; these rules are made by each House. Some of these rules are in regard to making motions, some as to the length of time a member can speak, some as to the reports and powers of committees. All these rules taken together make up what is known as parliamentary law, the law that governs all deliberative bodies, such as legislatures, corporations, clubs, and other associations. One very important method or rule of procedure, is the one in regard to committees. The Speaker of the House appoints a number of committees to

consider the various measures that come before Congress to be acted upon. Each committee looks thoroughly into the matter referred to it, reports the results of the examination, and makes recommendations to Congress. The Committee on Military Affairs considers all matters relating to the Army, the Committee on Foreign Affairs considers all business we may have with foreign nations. The Committee on Rules considers and reports on rules for governing the House. The most important committee is that on Ways and Means. One of its duties is to consider and report on the ways of raising money by means of the tariff.

In the Senate these Committees are elected by ballot by the Senators.

Sometimes in the excitement of debate a member will so far forget himself as to break the rules of the House ; he is then called to order by the Speaker, and if he still persists in his conduct he can be punished by the House.

In 1856 Mr. Preston S. Brooks, Representative from South Carolina, struck Senator Charles Sumner with a cane, while the latter was in the Senate Chamber. A committee of the House of Representatives reported in favor of expelling Mr. Brooks, but when the House voted on the question of expulsion, the vote for conviction was less than the required two-thirds.

*Clause 3.* "Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy ; and the yeas and nays of the

members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal."

**The Congressional Record.** — The proceedings of Congress which are kept in accordance with this clause are published daily in a pamphlet called the *Congressional Record*. Each member of Congress and some other officers are entitled by law to a certain number of copies, which they send to people in different parts of the country. Copies of the *Congressional Record* can also be obtained by citizens by paying for them. The people are thus kept informed of the proceedings of Congress.

The Senate when it is considering a treaty with a foreign country keeps its proceedings secret, by going into executive session. The Webster-Ashburton Treaty, concerning the northeastern boundary line, was considered in executive or secret session.

The yeas and nays of the members are recorded in important questions, so that the people may know how their representatives voted on these questions.

*Clause 4.* "Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting."

As a previous clause provides that less than a majority of either House may adjourn, it might happen that less than

a majority of one House might adjourn for an indefinite period and stop the work of the Congress. Clause 4 is intended to prevent this by requiring the consent of both Houses to a long adjournment.

*Section 6. Clause 1.* "The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place."

The first Congress passed an act fixing the pay of Representatives and Senators at six dollars per day each. This salary has been changed several times; it is now (1905) five thousand dollars per year. The fact that the United States pays the members, makes them independent of the states.

The privilege from arrest in this clause is given the members so they cannot be prevented from attending to their duties by arrest on trifling charges that might be brought against them by political opponents. A felony is a gross crime — murder, highway robbery and forgery are instances of felony. Fighting in the street would be a breach of the peace. Treason is defined in Article III., Section 3, of the Constitution.

In debating measures and men in Congress, it often happens that characters of men are discussed. No man who may think his character has been injured by a member in debate, can sue the member in any court. This is to insure perfect freedom of speech in Congress.

*Clause 2.* "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office."

As the Senate and House of Representatives make many laws creating civil officers and often regulate the pay of the civil officers, it would be unwise to allow a Senator or Representative to take part in creating an office or fixing the pay of an office, which he himself might hold. There is a prejudice against a citizen holding two public offices at the same time, and this clause forbids it. This is especially proper in the case of members of Congress. If, for example, a judge were a member, it might happen that he be called upon to vote on his own impeachment.

## CHAPTER V.

### MODE OF PASSING LAWS.

*Section 7. Clause 1.* "All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills."

**Revenue Laws Originate in the Lower House.**—The people have always been very jealous of the power to impose taxes, and the Constitution places the power in the hands of the Representatives because they are elected for only two years; and if the power should be abused the people could correct the matter by not reelecting such as they considered failed in their duty. However, after a revenue or tax bill has once passed the House, the Senate may change it. The change must be agreed to by the House, before it can become a law.

All tariff bills originate in the House, as they are revenue bills taxing imports. The McKinley Bill, the Wilson Bill and the Dingley Bill are among the prominent tariff bills, each bill taking its name from the Chairman of the Ways and Means Committee that had the bill in charge.

*Clause 2.* "Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President

of the United States: if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law."

From this clause we learn that there are three ways by which a law can be made:

**A Bill May Become a Law by Being Passed by a Majority of Each House and Receiving the President's Signature.**—First, a bill may be voted for by a majority of each House and signed by the President. The Missouri Compromise was made a law in this manner, being

passed by a majority of each House and signed by President Monroe.

**A Bill May be Passed by a Two-thirds Vote of Each House Over the President's Veto.**—A second way in which a bill may be enacted is by being passed by a majority of each House, and on the President's refusal to sign it, by being repassed by a two-thirds vote of each House. The Civil Rights Bill became a law in this manner, being passed by two-thirds of each House after President Johnson had vetoed it, or in other words, refused to sign it.

**How Some Bills Become Laws Even Without the President's Action.**—A third way is by the bill being passed by a majority of each House and the President keeping it for ten days (Sunday excepted) without signing it. The Wilson Tariff Bill became a law in this way, as President Cleveland did not return it to Congress within ten days. If, however, Congress had adjourned so as to prevent the return of the Wilson Bill before the ten days had expired, it would not have become a law.

When Congress adjourns before the expiration of the ten days, preventing the return of the bill and it remains in the President's hands unsigned, it does not become a law. This is termed a "pocket veto."

A bill for the improvement of river and harbors was held by President Jackson. Congress adjourned in less than ten days, preventing its return within ten days after he received it, and the bill failed to become a law through the "pocket veto."

Many bills have failed to become laws by being vetoed by the President. A prominent one is that relating to the United States Bank. The bill giving this bank a new charter or power to exist and do business was vetoed by President Jackson during his first term.

*Clause 3.* "Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States, and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

This clause has exactly the same meaning as Clause 2 and was adopted so that if Congress should change the word *bill* in Clause 2 to one of the words *order*, *resolution*, or *vote*, they could not avoid sending the bill to the President for his approval. This method of passing bills is similar to the method adopted in most state governments. The governor of the state approves or vetoes the bills passed by its Legislature.

We must here note that the President, when he acts under these clauses, takes an important part in the legislative function. We shall learn from Article II. of the Constitution that the President's function is chiefly executive.

## CHAPTER VI.

### POWERS OF CONGRESS.

The Constitution thus far has treated of the election and formation of Congress. It has told us how the members are brought together for the business of making laws, and how those laws must be made.

In the following section the Constitution tells the Congress what it may do, and what laws it has power to make. And Congress cannot go beyond these powers and make other laws than are permitted by the Constitution. If it should do so, those laws could be declared unconstitutional and worthless by the Supreme Court, which is part of the judicial department of the United States.

In 1857, the presiding justice of the Supreme Court, in rendering the decision on the Dred Scott case, declared that the Missouri Compromise, passed by Congress in 1821, was unconstitutional and void, and in 1895 the Supreme Court declared unconstitutional that part of the Wilson Tariff Bill of 1894 which referred to an income tax, and the taxes collected under that provision were returned, Congress having gone beyond its power in making that part of the law.

*Section 8. Clause 1.* "The Congress shall have power to lay and collect taxes, duties, imposts and

excises, to pay the debts, and provide for the common defence and general welfare, of the United States; but all duties, imposts and excises shall be uniform throughout the United States;”

The four words— taxes, duties, imposts, and excises — mean about the same, and refer to money collected from the people for the purpose of carrying on the government. The old Continental Congress had no power to collect taxes.

**Use Made of the Taxes.**— Let us see what Congress can do with these taxes:—(1) “Pay the debts.” During the revolution the United States had borrowed large sums of money, which the states as individual governments neglected to pay. Congress, by this clause having the power to raise the money, paid these debts, and has kept faith with its creditors ever since. The principal foreign debt was the French loan.

(2) “Provide for the common defence” means the maintaining of forts, armies and navies.

(3) “Provide for the general welfare” can be made to cover all acts that tend to benefit the whole country. The power to purchase Louisiana is found in this clause, as this purchase benefited the whole country by opening the Mississippi River, and relieving us forever from boundary disputes with France.

The weather bureau is established for the general welfare ; agricultural stations, whence are sent information and sample seeds to farmers, are also for the general welfare.

These taxes shall be uniform, that is to say, a man in

California shall be taxed in the same ratio as the man in New York.

*Clause 2.* "To borrow money on the credit of the United States;"

At the outbreak of the war with Spain the United States borrowed fifty million dollars from the people, and issued to the purchasers interest-bearing bonds, they having confidence that the United States would redeem the bonds with the money obtained by taxes.

*Clause 3.* "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;"

**Power over Commerce and Trade.**— The United States regulates commerce with foreign nations by making treaties with them. It would be very unwise to allow each state to make treaties of commerce and trade with foreign nations. Treaties might thus be made giving one state an advantage over another.

In the year 1795, "Jay's Treaty" with England was signed by the President and concurred in by the Senate by a vote of twenty to ten, exactly two-thirds. This treaty contained many clauses regulating our trade with England.

Congress has passed a law creating the Interstate Commerce Commission, which has supervision over railways and other means of transportation between the states. Their principal duty is to see that the passenger and freight rates are equitable between the states.

This clause makes the Indian tribes to a certain extent the wards of the nation.

*Clause 4.* "To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;"

**Naturalization.** By rule of naturalization is meant a law stating who are and who may become citizens. Why the United States should have this sole power has already been explained. Every person born in the United States is a citizen. The children of citizens of the United States born while their parents are temporarily living abroad are citizens.

Foreigners can become citizens after a residence of five years, by applying to a United States Court; two applications are necessary, one two years before the final application. The applicant must swear to support the Constitution of the United States and must renounce all allegiance to any foreign State.

A soldier or a sailor in the Navy of the age of twenty-one, regularly discharged from the Army or the Navy of the United States, may be admitted to citizenship with a single year's residence.

All children whose parents are naturalized become citizens at the age of twenty-one if they reside in the United States.

**Bankrupts and Bankruptcy.**—A person who cannot pay his debts is a bankrupt. During the panic of 1837 many people suddenly lost fortunes and their creditors

could prevent them from again succeeding financially, by seizing any property they might acquire in the future, to satisfy the creditors' old claims.

Congress has at different times passed bankrupt laws, which free a man from his debts, provided he gives what property he may possess into the hands of his creditors for their benefit. He cannot take advantage of the law, if it is proved he has acted fraudulently.

Congress has repealed all the United States bankrupt laws except the last one, and there have been long periods of time when there were not any United States bankrupt laws in effect. During these periods, the State bankrupt laws have been valid and have caused more or less annoyance and confusion to both creditors and debtors, owing to the laws not being uniform.

*Clause 5. "To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;"*

**Laws Relating to Money and Weights.**—Congress has passed many laws relating to coining money, and it has equipped establishments called mints, in which money is coined. At present there is a mint in each of the following cities:—San Francisco, Carson City, Philadelphia and New Orleans. The gold and the silver coin of the United States, by law of Congress, is ninety *per cent* pure, the other ten *per cent* is copper.

In the early period of the history of the United States coin of all countries was in circulation, and it was neces-

sary that some power should regulate its value in business. This power was given to Congress. At the present time, the bankers and merchants regulate the rate of exchange with foreign countries through the law of supply and demand.

In 1836, Congress directed the Secretary of the Treasury to deliver a complete set of weights and measures adopted as standards, to the governor of each state, in order that there might be a uniform standard throughout the United States. In 1866, the metric system was legalized by Congress, and in 1876, money was appropriated to procure metric standards for all the states.

*Clause 6.* "To provide for the punishment of counterfeiting the securities and current coin of the United States;"

During the Revolution some evil persons counterfeited the Continental money and under the Articles of Confederation there was no power to punish the counterfeitors. The United States Congress has established a force of men, known as the secret service, whose most important duty is to detect counterfeitors. These men have arrested, and the United States courts have, through the laws of Congress, convicted many men of this crime against the country. It will be noticed that the power of punishment also extends to counterfeiting the securities. These securities are bonds and notes on which the Government borrows money.

*Clause 7.* "To establish post-offices and post-roads;"

**The Post-Offices and Mails.**— By the power given in this little sentence, Congress has established the vast system of post-offices and mail deliveries throughout the United States. All matters connected with the mails are in charge of the United States.

In 1806, Congress, under the power conferred in this clause, passed an act for the building of a road from the Potomac to the Ohio River. At different times Congress has aided railroads and other transportation companies in building their roads, these companies in return carrying the United States mail. When a transportation company assumes the duty of carrying the mail it is under the protection of the United States, and it sometimes happens that United States troops are sent into a state to protect these transportation companies against the attacks of mobs and strikers. Ordinarily, United States troops are not used in the states unless at the request of the governor of the state.

*Clause 8. "To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;"*

**Copyrights and Patents.**— The copyright law now in force gives an author the exclusive right to control the sale of his books or publications for twenty-eight years, with the privilege of having this right renewed for the period of fourteen years more. All books must have the date of the copyright printed in them. This copyright is obtained by

applying to the Librarian of Congress. The patent law passed by Congress under this clause gives an inventor the exclusive right to make and sell his invention for seventeen years. The inventor makes an application to the Patent Office in Washington and when the patent is granted all the articles made and sold are marked patented, with the date of the granting of the patent.

**Important Inventions.**— Among the important inventions which have been patented are the cotton gin, patented by Eli Whitney in 1793, the electric telegraph, by S. F. B. Morse in 1837 ; and the sewing machine, by Elias Howe in 1846. A series of patents was granted on the discoveries in the manufacture of india rubber made by Charles Good-year from 1837 to 1850. The telephone, invented by William Graham Bell, was patented in 1876. Thomas A. Edison has patented many electrical devices since 1870.

*Clause 9.—“To constitute tribunals inferior to the Supreme Court;”*

Under this power Congress has established courts, which will be considered when we discuss the judicial department of the Government, and the Supreme Court.

*Clause 10.—“To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;”*

**International Law.**— The law of nations consists of the customs that have gradually grown out of the commercial and other transactions among nations, together with the

treaties nations make with each other. One of these customs or laws is to consider a pirate an outlaw to be punished, on conviction, with death. In 1819 there were many pirates cruising in the West Indies, and the United States sent Commodore Perry there to capture them. He died of yellow fever at Trinidad; other vessels, however, were sent and eventually cleared this region of pirates.

Nations regard ships sailing under a national flag as part of the territory of the country the flag represents. The United States therefore is given the power, under the Constitution, to punish felonies committed on the high seas under the flag. The oceans or high seas are considered the joint property of nations.

Another law of nations is that a nation's representatives, as ambassadors and consuls, shall not be disturbed during their official residence in another country. If, therefore, a citizen of the United States should disturb one of these officers of a foreign country during the officer's residence here, the citizens could be punished under the power granted by this clause.

*Clause 11.* "To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

**Power of Declaring War Vested in Congress.**—The power of declaring war is one of the most important powers of a nation. The whole Congress exercises this power for the United States. We have already referred to this power

being used by Congress in declaring war against England in 1812.

**Privateers.**—Letters of marque and reprisal are commissions given, in time of war, to owners of vessels empowering them to capture and destroy the enemy's vessels on the seas and in his ports. A vessel so commissioned is called a privateer. During the war of 1812 sixteen hundred British vessels were captured or destroyed by American privateers.

Many nations have by treaty agreed not to use privateers in any future war. The United States, however, has not entered into any such agreement.

As the property captured in time of war is taken under power of Congress, it is right that Congress should make rules as to its disposal. In the case of captured vessels they have heretofore been sold and part of the proceeds distributed to the officers and sailors of the capturing vessels as prize money.

*Clause 12. "To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years;"*

**Money for the Army.**—Under the Articles of Confederation the United States could declare war, but had no power to raise armies. The Government depended on the men the different states might send. This clause gives Congress the power to call men into the army. In 1863 a law was passed declaring that all male citizens between the ages of twenty and forty-five, and those men who had

declared their intention to become citizens, with some exceptions, constitute the national forces ; and by virtue of this law, men were picked out by lot, or drafted, as it was called, to serve in the army during the Civil War.

As appropriations for money originate in the House of Representatives, and as the appropriations for the army can be made for only two years, the power over the army rests in the people, as they can send representatives to Congress at the expiration of any appropriation, pledged to oppose an appropriation of money for the support of the army.

Congress maintains a small standing army, commonly known as the regular army, for the purpose of caring for the forts and defenses on the coast and frontiers. The army also forms a nucleus about which can be gathered the volunteers and drafted men in time of war. As the regulars are in constant training, many of them are capable of drilling and commanding recruits when necessity calls for them.

*Clause 13. "To provide and maintain a navy;"*

**The Navy.**—Congress by this clause is not only empowered to build and equip ships, but can enact legislation tending to maintain them. It appropriates money each year for the improvement of rivers and harbors under this clause, also for the establishment of lighthouses, lightships, beacons and buoys, as all these are necessary for the maintenance of a navy.

*Clause 14. "To make rules for the government and regulation of the land and naval forces;"*

**Military Laws and Regulations.**—Congress has passed laws at different times for the government of the land and naval forces. These laws were all brought together—codified as it is called—into one section (in 1874), known as the Articles of War of the United States. These Articles contain the oath that is to be taken by a soldier on enlisting, and also give rules for the conduct and instruction of officers for creating and conducting a court-martial. Among these rules we will mention the following:

“Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved shall suffer death, or such punishment as a court-martial may direct.”

“Any officer who is convicted of conduct unbecoming in an officer and a gentleman shall be dismissed from the service.”

“General courts-martial may consist of any number of officers from five to thirteen inclusive; but they shall not consist of less than thirteen when that number can be convened without manifest injury to the service.”

A majority in a court-martial convicts; in the case of a tie the accused person is acquitted.

*Clause 15.* “To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;”

**The Militia or Citizen Soldiers.**—The militia consists of the citizen soldiers of the different states. Regiments and companies of men are organized in the different states by volunteer citizens. They are uniformed and equipped by

the state. Armories are also built and furnished by the state. The men receive no pay except when in active service. They drill generally in the evening and lose no time from their ordinary work, unless when called by the state in time of riot or other troubles. Under clause 15 all these men can be called into the service of the United States, and they then receive the same pay and are governed by the same laws as the United States Regular Army.

The militia was called out in 1794 to suppress the insurrection in Pennsylvania known as the Whiskey Rebellion, and also in 1812, during the war with England, to "repel invasions."

*Clause 16.* "To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;"

This clause has been fully explained in considering the previous clause.

*Clause 17.* "To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States and to exercise like authority over all places purchased,

by the consent of the Legislature of the States in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

The words "such district" refer to the District of Columbia, where is situated Washington, the Capital of the United States. This territory was ceded to the United States by Virginia and Maryland. Congress has full power to govern this district.

It is necessary that forts, arsenals, magazines and dock-yards be built in different parts of the country. Land for these purposes is obtained from the states by the United States, and when it is acquired, Congress makes all the rules for its government.

*Clause 18.* "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Under this clause Congress has made many laws that are necessary to carry out the powers granted to it. A very important law of this nature was one passed during the Civil War, authorizing the making of paper money. Congress was then exercising its power of making war, money was needed to carry this power into execution, and Congress passed a law for making paper money to use in carrying on the war.

Another case of this kind was the passing of the Embargo Act in 1807. Congress has power to regulate commerce with foreign nations. England and France were at that time at war, and infringing on the rights of neutrals, and Congress passed this law as an attempt to compel two nations at war to respect the rights of neutrals. The attempt was a failure.

## CHAPTER VII.

### POWERS DENIED CONGRESS.

Section 8, with its eighteen clauses, which we have just discussed, tells us what Congress can do. It contains a list of powers that originally belonged to each and every state in the Union, and which each of these states has surrendered to the central Government of the United States, for the benefit and welfare of all the states taken together.

**What Congress Cannot Do.**—Section 9, with its eight clauses, tells us what Congress cannot do. It gives a list of the rights that each state has not surrendered. If Congress should pass a law to do anything forbidden in this section, the matter would be taken to the Supreme Court, and there tried and declared unconstitutional.

*Section 9. Clause 1.* “The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.”

The word persons in this clause refers to slaves. The whole clause, in fact, refers to trade in slaves with foreign countries. Congress passed an act in 1807 to take effect

January, 1808, prohibiting the importation of slaves, and in 1820 slave trade with foreign countries was declared to be piracy punishable with death.

This clause no longer has any weight in the Constitution, as all slavery is now unlawful in the United States.

*Clause 2.* "The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."

**Habeas Corpus.**— The right of *habeas corpus* is founded on the old English Common Law and was in 1679 included in the Acts of Parliament. It is a right which every citizen who may be imprisoned accused of crime has, of going before a court in order that his case may be inquired into by the court. If there is no just cause for his imprisonment, he must be released.

Tyrannical governments have sometimes arrested and imprisoned men without cause; and when this right of *habeas corpus* did not exist, the prisoner could not compel a judge to grant him a hearing and very likely would remain in prison till he died.

In time of war the territory covered by armies in action is considered under military or martial law and then this right is suspended.

December 16, 1814, during the war with England, Jackson declared New Orleans under martial law and the privilege of the writ of *habeas corpus* was suspended. Lincoln also suspended the writ at times during the Civil War.

*Clause 3.* "No bill of attainder, or *ex-post-facto* law, shall be passed."

**Bill of Attainder and Ex-post-facto Law.**—A bill of attainder is a law inflicting death or other punishment without a judicial trial. The case of a man accused of treason or any other crime must be passed upon by a court, and Congress can make no law inflicting punishment on him without a trial by a court.

An *ex-post-facto* law is one that makes an act a crime which was not a crime when the act was committed, or that makes the punishment of a crime greater than it was when the crime was committed.

If on and before January 1, 1903, it was not unlawful for a citizen to enter a United States fort, and Congress should pass a law in 1904 making it a crime to have entered the fort in 1902, this would be an *ex-post-facto* law.

*Clause 4.* "No capitation or other direct tax shall be laid, unless in proportion to the *census* or enumeration hereinbefore directed to be taken."

**Poll Tax.**—A capitation tax is a tax not on property, but on the man; it is sometimes called a poll (head) tax, and if this tax is laid it must be in proportion to the census we have before described. The United States has never laid a capitation tax; the state of Massachusetts assesses a poll tax of two dollars on every male inhabitant above the age of twenty years.

*Clause 5.* "No tax or duty shall be laid on articles exported from any State."

England restricted the colonists in shipping their products out of the country, and as an export tax would be a restriction on the states in their trade with foreign countries, without any corresponding benefit to the states, the right to impose an export tax was denied Congress.

*Clause 6.* "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties, in another."

We see by the above clause that all states stand on the same basis as to foreign trade, and that there is free trade between the states.

We have seen how under the Articles of Confederation New York State laid a duty on the produce of the New Jersey farmers; this clause forbids any such duties, and guarantees free trade between the states.

*Clause 7.* "No money shall be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

**Appropriations of Money.**—The president could not draw his salary unless Congress made an appropriation for it. Each year Congress passes bills making the appropriations for carrying on the Government, specifying in detail the amounts for all the departments of the Government.

Each year the Treasury Department publishes a report of the money received and expended, tells whence it was received and for what it was spent. Volumes of these reports can be found in the Congressional Library.

*Clause 8.* "No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state."

**Titles of Nobility.**—Absence of a nobility or titled aristocracy is one of the foundation stones of a republic. Therefore the granting of such titles is prohibited, and Congress has passed a law which makes a foreigner holding such a title renounce it before he can become a citizen of the United States. This clause also is a guard against bribery of the officers of the United States by foreign powers.

## CHAPTER VIII.

### POWERS DENIED THE STATES.

Sections 8 and 9 have told us what the United States Government is allowed to do, and what it is not allowed to do by the states ; and as the Constitution is an agreement between the central Government of the United States and the individual states, there must of course be some acts that the individual states cannot perform. Section 10 informs us of the powers denied the states. Should any state pass a law, or do any act denied it in this section, such law or act could be declared of no effect by the United States Supreme Court. The states are prohibited from emitting bills of credit, yet the State of Missouri after it was admitted passed an act permitting the issue of bills of credit, and the matter being brought to the United States Supreme Court, the act was declared unconstitutional and of no effect.

*Section 10. Clause 1.* “No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex-post-facto* law, or law impairing the obligation of contracts; or grant any title of nobility.”

This clause leaves no doubt that the treaty making power belongs to the United States, that the United States only

can commission privateers, and that the control of the issuing of money is also in the central Government.

**The Dartmouth College Case.**—The State of New Hampshire passed a law taking the powers of the trustees of Dartmouth College from them, and placing it in the control of the State Government. The trustees appealed to the Supreme Court of United States, Daniel Webster acting as attorney for the trustees. The Court declared the act of the state unconstitutional and void, as it impaired the obligation of a contract.

*Clause 2.* “No State shall, without the consent of the Congress, lay any imposts or duties on imports, or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress.”

**The United States Controls Imports.**—Under the Articles of Confederation each state laid duties on imports, some high, some low, and confusion resulted. This clause leaves the power to lay duties on imports with the United States, except for inspection purposes. In some states men are appointed to inspect food products that may be imported into the state, and the cost of this inspection can be collected by the state.

*Clause 3.* "No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships-of-war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

Duty of tonnage means duty on ships. It can readily be observed from this clause that Congress has the sole power of laying duties.

Keeping troops in time of peace does not refer to the militia, who are not kept by the state unless in its pay and in actual service: this clause leaves the whole war-making power in the hands of Congress. The states are forbidden by this clause to enter into any agreement with another state, because the constitution is the agreement that binds the states together, and any other compact would tend to destroy it. There was for some years after the Revolution fear that, on account of our weakness, some European nation would obtain control of some of the states, and the states were forbidden to make any agreement or compact with a foreign power, thus leaving all diplomatic intercourse in control of the United States.

We have now finished the study of Article I. of the Constitution which has to do entirely with the legislature — the law-making power of the Government. After the laws are made they must be enforced and executed, and some power must be devised for this purpose. The Constitutional Convention made every provision for this executive power in Article II., which we will now proceed to consider.

## CHAPTER IX.

### THE PRESIDENT.

In considering Article II., which has to do with the executive function of the Government, we must bear in mind that this function calls for power to perform acts and enforce laws.

In providing for this function the framers of the Constitution were confronted with a difficult task, as, while it is necessary to give the power to some individual or set of individuals, this grant of power must be so limited that it cannot become tyranny in the hands of an evil person or persons.

The Constitution, as will be seen by this Article II., grants the executive power to one person, and designates his qualifications, manner of election and term of office, and specifies his powers and duties. We have learned in Article I. that Congress has power to impeach and to try the executive officer, should he overstep his powers or fail in his duty.

### ARTICLE II.

*Section 1. Clause 1.* "The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President chosen for the same term, be elected as follows:

*Clause 2.* "Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or persons holding any office of trust or profit under the United States shall be appointed an elector."

*Clause 3.* "The electors shall meet in their respective States, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same State with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates: and the votes shall then be counted. The person having the greatest number of votes shall be President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if, no person having a majority, then, from the five highest on the list, the

said House shall, in like manner, choose the President; but, in choosing the President, the votes shall be taken by States, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States; and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But, if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President."

**The Electoral College.** Clause 2 provides for a number of men from each state, all of whom are to meet together and vote for two natural-born citizens for President and Vice-President. The men are to be appointed as the state legislature may direct. The different state legislatures have passed laws by which these electors are at the present time elected by the people in the same manner as other civil officers are elected. It will be noticed that citizenship is not a qualification of a presidential elector.

**Weakness of Clause 3 as Displayed in the First Four Elections.**—Let us follow out the actual working of Clause 3 during the early history of the United States. At the first election Washington received 69 votes and John Adams 34. These being the two highest of all those voted for, Washington was declared President and John Adams

Vice-President. At the next election in 1792 Washington was highest on the list with 132 votes and Adams next with 77. They were accordingly elected President and Vice-President a second time. Washington refused to be a candidate for a third time and thus set an example which has since been followed, no third-term candidate as yet having been voted for. There is, however, no law to prevent a President being elected three or more times.

At the election in 1796 John Adams of the Federalist Party received 71 votes, and Thomas Jefferson of the \*Republican Party received 68 votes; and, being the two highest on the list voted for, Adams was elected President and Jefferson Vice-President. Here we see a weak point in this clause—if Adams had died, Jefferson, who belonged to the opposite political party, the party in the minority, would have become President; and during four years the two highest offices in the Government were held by men of different political beliefs and thoughts. This did not lead to harmony and good feeling at the head of the Government.

In 1800 Thomas Jefferson received 73 votes and Aaron Burr received 73 votes—a tie. The election according to this clause devolved on the House of Representatives, and there Jefferson received the votes of ten states and Burr received the votes of four states. The former was accordingly elected President and the latter Vice-President.

**Amendment of Clause 3.**—In the meantime the people discovered the weakness of this clause, and before the next election an amendment (the 12th) was added to the Constiti-

\* Now known as the Democratic Party.

tution correcting this defect. This amendment changes the method of voting by the electors so that they vote for one man for President, and another man for Vice-President; and if the highest on the list of candidates for President does not receive a majority, the House of Representatives elects one from the highest three on the list.

John Quincy Adams was elected President in this manner by the House of Representatives, the only President so elected.

If the highest on the list of those voted for by the electors for Vice-President does not receive a majority, the Senate from the two highest on the list elects a Vice-President. Richard M. Johnson was thus elected by the Senate, although at the same election Martin Van Buren was elected President by a majority of the electoral votes.

This method of voting by the electors has now become a mere form, because the candidates are picked out by the people; and the electors are in honor bound to vote for the candidate of the people or party who elected them. The President and Vice-President therefore come nearer to being elected by popular vote than was the intention of the framers of the Constitution.

**The Election of 1876.** — In 1876 Florida and Louisiana each sent in two sets of electoral returns, one set voting for Mr. Tilden's electors, and one set voting for Mr. Hayes' electors. As there was no provision in the Constitution and no law on the statute books for a case like this, Congress appointed a commission of fifteen, five from the House of Representatives, five from the Senate, and five from the

Supreme Court. This commission decided by a vote of eight to seven in favor of Mr. Hayes' electors. Congress in 1887 passed a law applicable to cases of this kind.

*Clause 4.* "The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

At present the electors are voted for on the Tuesday next after the first Monday in November, and the electors vote on the second Monday in January.

*Clause 5.* "No person, except a natural-born citizen or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."

The above clause is self explanatory; by it the office is guarded against foreign intrigue and corruption. The required residence of fourteen years allows the citizens to gain a knowledge of the man and his attachment to his country.

*Clause 6.* "In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President;

and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed, or a President shall be elected."

**Law of Succession.** — Five Presidents have died in office and have been succeeded by Vice-Presidents ; William H. Harrison was succeeded by John Tyler in 1841. Zachary Taylor was succeeded by Millard Fillmore in 1850. Abraham Lincoln was succeeded by Andrew Johnson in 1865, James A. Garfield by Chester A. Arthur in 1881, and Wm. McKinley was succeeded by Theodore Roosevelt in 1901. There has never been a vacancy in both offices at the same time. Congress has provided by law if such a case should occur, that the members of the cabinet in the order of the creation of the office shall act as President, till another shall be elected. This order is as follows : Secretary of State, Secretary of the Treasury, Secretary of War, Attorney General, Postmaster General, Secretary of the Navy, Secretary of the Interior, Secretary of Agriculture and Secretary of Commerce and Labor.

In the event of a cabinet officer acting as President, a new election would be held, the next November, on the Tuesday following the first Monday. He could not serve out the full presidential term as does the Vice-President.

*Clause 7.* "The President shall, at stated times, receive for his services a compensation, which shall

neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them."

**Salary of the President.**—Until President Grant's second term the salary of the President was twenty-five thousand dollars a year. During Grant's first term an act was passed making the salary fifty thousand dollars a year, and it has so remained ever since. The President is given a residence and is furnished some servants. The provisions in this clause concerning increase of salary during his term of office and emolument from the United States or any state are to guard against bribery.

*Clause 8.* "Before he enter on the execution of his office, he shall take the following oath or affirmation: 'I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.'"

All Vice-Presidents who have succeeded to the office of President have taken this oath.

*Section 2. Clause 1.* "The President shall be the commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive depart-

ments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment."

**The President's War Powers.**—As the President is the executive or enforcing function of the Government, it is proper that he should be commander-in-chief of the army and navy. As yet no President has acted on the field of battle; but in time of war, Presidents in office at the time have issued many orders to both naval and military officers. The President generally issues his orders through the executive departments. The heads of the executive departments compose the cabinet. These were enumerated when we considered the succession to the Presidency in case of vacancy in the offices of President and Vice-President.

In 1898 President McKinley, through the head of the Navy Department, Secretary Long, ordered Admiral Dewey to find and destroy the Spanish fleet, which order the Admiral carried out with a thoroughness hitherto unknown in naval history.

In 1846 President Polk ordered General Taylor to march the United States army across the Nueces River and go to the Rio Grande on the Mexican frontier. This was the first military move in the Mexican War. Congress soon after declared that war existed.

The President as commander-in-chief in time of war can make use of so called war measures which will tend to place the enemy at a disadvantage.

President Lincoln in 1863 issued the Emancipation Proclamation as a war measure. As this freed the slaves of those at war with the United States it was evidently to the disadvantage of the enemy.

**The Heads of Departments, or the Cabinet.** — The heads of departments in addition to special reports made at the request of the President, now make annual reports which are printed for the information of the people.

The Secretary of State reports on our relations with foreign countries, concerning negotiations and correspondence with them, these affairs being in his charge.

The report of the Secretary of the Treasury contains information as to the amount of money collected and expended, the amount of the debt, interest on the debt, the amount of money on hand, and all other matters relating to the finances of the nation.

The Secretary of War is head of the war department and his annual reports show in detail everything connected with the military service.

The Attorney-General reports as to the condition of the affairs of justice, it being the duty of his department to attend to all the law business in which the United States may be interested. His department prosecutes all breaches of the United States laws, which come before the Supreme Court, and gives legal opinions and advice to the President on request.

The Postmaster General reports on all matters connected with carrying the mails.

The Secretary of the Navy reports on the condition of the

navy. This department is directly under his immediate control and includes the ships, docks, dockyards, naval depots and arsenals.

The Secretary of the Interior has charge of the public lands, surveys, explorations, pensions, patents, and transactions with the Indians ; and on all these matters he makes annual reports.

The Secretary of Agriculture superintends all the agricultural interests of the country, distributes seeds, makes experiments in regard to new methods of cultivation and reports the results of all these transactions. These reports when printed are distributed among the farmers, and tend to the general welfare of the country at large. The weather reports are also in charge of the Secretary of Agriculture.

The Secretary of Commerce and Labor reports on the condition of commerce, labor, and the vast system of inland transportation ; it is his duty to see that the transportation companies conduct their business in a lawful manner. He also has charge of the Census Bureau.

Each of these secretaries receives a salary of eight thousand dollars per year, and they meet on appointed days with the President to discuss the affairs of the nation.

We shall learn that the individual state governments are very similar to that of the United States ; but this feature of a number of secretaries acting as a cabinet or advisory council is entirely wanting in the state governments. In fact, this feature is nowhere contemplated in the United States Constitution, and is the result of gradual growth. In the early history of our country there were but three secretaries.

**The Pardoning Power.**—The last sentence of Clause 1 refers to the President's power to pardon. This power exists in all good governments and is generally in the hands of the executive department. President Madison pardoned General William Hull, who had been sentenced to be shot for cowardice in the War of 1812. Twelve years after being pardoned, Hull proved to the country that his conviction was an error.

President Lincoln in 1863 issued a pardon to certain of the southern people who had been in rebellion against the United States; and after the Civil War President Johnson issued pardons at three different times granting amnesty and the rights of citizenship to many of those persons who had been engaged in the war against the Union.

*Clause 2.* "He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law or in the heads of departments."

Treaties are usually negotiated by the President or his representatives and then sent to the Senate for their consent.

In like manner the names of men appointed to the various offices of the government are sent to the Senate for their approval. The action of the Senate is more that of consenting or refusing than of advising.

**Civil Service Laws.**—In accordance with this clause Congress has vested the power of appointment to many inferior offices, in the heads of departments, and has passed acts called Civil Service laws, whereby the applicants for such offices are compelled to pass competitive examinations, showing fitness for the position sought. These laws also insure the successful applicant the right to hold the position undisturbed by political pressure as long as he is fit to do the required work.

**Clause 3.** “The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.”

**Filling Vacancies.**—This clause does away with the necessity of calling a special session of the Senate to ratify appointments, which may become necessary on account of the death of ambassadors, judges or other officers, while Congress is not in session. When the Senate meets, however, in the next regular session, an appointment must be made by the President and confirmed by the Senate to fill the place of the one made *ad interim*.

*Section 3.* "He shall, from time to time, give to the Congress, information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

**The President's Message.**—It has become a custom for the President to send a message to Congress at the beginning of each regular session, informing them of our relations with foreign nations and of our internal conditions; these messages are often accompanied by reports from each member of the Cabinet giving the condition of his department.

**The Monroe Doctrine.**—President Monroe, in one of his messages to Congress, informed them that the American Continent must not hereafter be considered as territory in which sovereignty could be acquired by European nations, either by colonization or otherwise. The substance of this message has since been known as the Monroe Doctrine, and while it never became part of a treaty or a statute, it has been recognized by American statesmen as an unwritten law.

It was in pursuance of this doctrine that the United States Government, after the Civil War, notified the Emperor of France to withdraw his troops from Mexico ; and Maximilian, the usurper, being thus deprived of foreign assistance, was dethroned and shot by the Mexicans.

**Extra Sessions.**—President Martin Van Buren (1837) called an extra session of Congress to consider ways and means to improve the condition of the country which had just passed through a financial panic. He sent a message to them recommending the establishment of the independent treasury system.

The two Houses of Congress have never had a disagreement as to time of adjournment, so it has never been necessary for the President to exercise his prerogative of adjourning them.

As negotiations with foreign nations are conducted by the President, he is, of course, the proper official, and his the proper department of government, to receive ambassadors and representatives of other governments.

This clause emphasizes the fact that the Presidential office is the executive department of the Government by declaring that he shall take care that the laws be faithfully executed.

As the President, with the Senate, appoints all the officers of the Government, it becomes his duty to give them commissions, which are documents authorizing them to act.

*Section 4.* "The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

This clause designates who may be impeached and makes it mandatory that those impeached on conviction shall be removed from office; the offences for which an official may be impeached are also here enumerated.

## CHAPTER X.

### THE COURTS OR JUDICIAL DEPARTMENT.

From Articles I. and II. we have learned the make up, powers and duties of the Legislative and Executive functions of the Government. We now know the qualifications of Representatives and Senators, we know what powers they have to make laws for the United States, and what powers are denied them, what privileges are theirs, and their connection as law makers with the President.

We have been informed as to what manner of man may be elected President, how he may be elected, and what he may or may not do in enforcing the laws of the United States after he is elected.

**Necessity of the Courts.**—In Article III. we shall learn the composition of the judicial department of the Government. The framers of the Constitution knew from the experience of mankind that differences of opinion as to the meaning of the clauses in the Constitution would arise, that there would be disagreements among citizens and states as to the interpretation of the laws of Congress ; and they therefore established the judicial department as a court which could decide and settle these differences and disagreements.

They were also aware that in the future, as in the past, men would be either rightfully or wrongfully accused of

crime, and a court thus established could decide as to the guilt or innocence of the accused, and punish him if convicted.

### ARTICLE III.

*Section 1.* "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts, as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

**The United States Judicial System.** — The Supreme Court now consists of eight associate judges and a chief judge. Congress under this clause has established inferior courts from time to time. The whole United States is divided into nine circuits. In each circuit is established a circuit court; each of the circuit courts has a judge of the Supreme Court assigned to it, besides three circuit judges, except two circuits which have only two circuit judges each.

The United States is further divided into seventy-six judicial districts, each presided over by a district court judge.

As the United States cannot be sued by a citizen or a state, Congress established in 1855 a Court of Claims, to hear and determine claims against the United States. If any such claims should be established against the United States it would be necessary for Congress to pass a law appropri-

ating the money to pay them, as we have already learned that no money can be drawn from the treasury unless through an appropriation of Congress.

This court consists of one chief judge and four associate judges.

Congress has also established a Court of Private Land Claims, consisting of one chief judge and four associate judges; this Court determines controversies involving a certain class of claims arising under United States laws relating to land grants in the recently acquired territory of the United States.

Cases may be appealed from the District and Circuit Courts to the Supreme Court for final judgment. The Supreme Court became so crowded with these appeals that in 1891 Congress established a Circuit Court of Appeals to relieve the Supreme Court. This Court consists of a Supreme Court judge, a Circuit Court judge and a judge appointed for this particular Court.

Congress has also established courts in the District of Columbia having jurisdiction of the District, and has also established courts in the territories with territorial jurisdiction.

From time to time special courts have been created by Congress for considering special cases. The court of Spanish War Claims is an instance of this kind.

**The Judges.**—All the judges of the regular courts are appointed by the President with the consent of the Senate and hold office during good behavior, and are thus dependent on no influence for continuing in office. The fact

that their pay cannot be diminished during their continuance in office also makes them independent of Congress.

These judges, appointed by the President and confirmed by the Senate, are removed from all political pressure, so far as income and tenure of office are concerned, and hence should render impartial and unbiased opinions.

**Court Officers.**—The officers of the United States Courts are Clerks, Marshals, a Reporter of the Supreme Court, and Attorneys. Each court appoints its own clerk. The District Attorney and Marshal are appointed by the President with the consent of the Senate. The Clerk keeps and cares for the records of all the proceedings of the court, the Marshal is the executive officer of the court and carries out the orders and judgments of the court, serves papers and makes arrests. The Reporter makes reports of all cases decided, and these reports are printed and bound, thus forming books of reference to inform lawyers of the way law points have been decided. To a certain extent these decisions become part of the law of the land.

Each District has a district attorney who represents the United States in all cases in which the Government is a party. The United States Courts admit lawyers to practice, and when so admitted they become officers of the court.

**Jurisdiction of United States Courts.**—Having now learned how the court is constituted, let us consider what power it has, and in what cases it has jurisdiction.

*Section 2. Clause 1.* “The judicial power shall extend to all cases in law and equity arising under

this Constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects."

The eleventh amendment to the Constitution provides that a citizen of one state cannot sue another state in the United States Court.

We have referred to a Reporter of the Supreme Court: Alexander J. Dallas was Reporter of the United States Supreme Court from 1789 to 1800. In the second volume of his reports is reported a case tried in the Supreme Court in which Chief Justice Jay clearly explains Clause 1 of this section. He says:

**Opinion of Chief Justice John Jay.**— "The Judicial power extends to all cases affecting ambassadors, other public ministers, and consuls; because as these officers are of foreign nations whom this nation is bound to protect and treat according to the laws of nations, cases affecting them ought to be cognizable only by national authority:

"To all cases of admiralty and maritime jurisdiction ; because as the seas are the joint property of nations, whose rights and privileges relative thereto are regulated by the laws of nations and treaties, such cases necessarily belong to national jurisdiction :

"To controversies to which the United States shall be a party ; because in cases in which the whole people are interested, it would not be equal or wise to let any one state decide and measure out justice due to others :

"To controversies between two or more states ; because domestic tranquillity requires that the contention of states should be peacefully terminated by a common judiciary and because, in a free country, justice ought not to depend on the will of either of the litigants :

"To controversies between citizens of the same state claiming lands under grants of different states ; because, as the rights of the two states to grant the land are drawn into question, neither of the two states ought to decide the controversy :

"To controversies between a state or the citizens thereof, and foreign states, citizens or subjects ; because as every nation is responsible for the conduct of its citizens toward other nations, all questions touching the justice due to foreign nations or people ought to be ascertained by and depend on national authority."

**Some Important Cases.** — The United States District Court tried Aaron Burr for treason in 1807. In 1819 the United States Supreme Court decided that the law passed by Congress creating the United States Bank is constitu-

tional. In 1855 the United States District Court for the Eastern District of Pennsylvania tried Henry Hertz for hiring persons to go out of the United States to enlist in the British foreign legion for the Crimea. This was a case arising under the neutrality laws of nations or laws whereby one country not at war is bound to prevent its citizens from aiding either of the nations who are at war.

*Clause 2.* "In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exception and under such regulations as the Congress shall make."

**Original and Appellate Jurisdiction.**— When a court has original jurisdiction it has authority to try a case or matter in dispute without its having been considered in any manner in any other court. When a court has appellate jurisdiction it considers cases that have been previously tried in some inferior court, and have been appealed to this court of appellate jurisdiction for a final decision.

The original jurisdiction of the Supreme Court is very limited. It meets only at Washington and it would be a hardship for citizens living say, in California, to try their cases in Washington; so they are permitted to try them in the District Court or Circuit Court in that state. The Constitution expressly insists in the next clause that crimes against

the United States shall be tried in the state in which they were committed.

The most important cases tried by the Supreme Court have been those heard on appeal from either the Circuit or District Courts. The decisions in the Dred Scott case which at one time were of the utmost importance, and which have already been referred to, were rendered by the Supreme Court acting as a Court of Appeals. This Court is sometimes called a court of last resort, and a tribunal of this kind is embodied in the system of justice adopted by every state.

The words "law" and "fact," as to the manner they are treated by a court, may be explained now. In a trial by a jury, the jury, except in a few special cases, only considers the facts, the judge or judges interpreting the law; but when the case is appealed to the court of last resort there is no jury, and the judges in most cases consider only the law.

*Clause 3.* "The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but, when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."

**A Trial Jury.**— A trial jury consists of twelve impartial and intelligent men who are selected by the combined judgment of the Court, the District Attorney (in a criminal case) and the lawyer of the accused. These men listen to the evidence against and for the accused, and to arguments

for and against him by the lawyers. The judge decides on all matters of law that may arise, rejects unlawful evidence, and tells the jury their duties as laid down by the law. The jury then retires and after deliberation brings in a verdict of conviction or acquittal. If they do not agree, a new trial may be had.

The trial must be held in the state in which the crime is committed as that locality is more convenient for all parties interested. To force the accused to a distant part of the country, would deprive him of the opportunity of obtaining witnesses and perhaps the assistance of friends and needed counsel.

Congress has provided by law for the trial of crimes committed in the territories and on the high seas. In the case of a crime committed on the high seas, the trial is held in the state at which the vessel first makes port after the crime has been committed.

*Section 3. Clause 1.* "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses, to the same overt act, or on confession in open court."

**Definition of Treason.**—We all remember the powerful speech of Patrick Henry (1765) in the House of Burgesses of Virginia, in which he said: "Cæsar had his Brutus, Charles I. his Cromwell and George III."—He was interrupted by his hearers, with cries of "Treason, treason!"

According to the law of some countries at that time, the use of this language was treason. The framers of the Constitution made a great advance in liberal government, when in this clause they limited treason to consist of actual war against the Government or the giving aid and comfort to its enemies. They were, no doubt, guided in the matter by their previous experience with the English and colonial government. Making the evidence consist of at least two witnesses puts it out of the power of one unscrupulous man to condemn as a traitor an innocent citizen.

**Cases of Treason.**—An instance of treason in giving aid to the enemy happened in the War of 1812. In 1813 Captain Decatur, in command of two United States war vessels, the *Macedonian* and *Hornet*, was blockaded in New London harbor. He had fixed on the night of December 12 to run the blockade. The night was dark and other circumstances were favorable. When everything was ready to make the attempt, Decatur was informed by some of his lookouts that blue signal lights were burning on both sides of the river. These lights had been placed there by traitors to warn the British blockaders of Decatur's plan to escape to sea with his vessels. The guilty ones were never discovered. There has been but one case of the death penalty for treason since the foundation of the government. This case was that of William B. Mumford, who in 1862 hauled down the United States flag from the mint in New Orleans, and afterwards acted in such a manner that General Butler had him arrested and tried for treason. He was convicted and hanged.

*Clause 2.* "The Congress shall have power to declare the punishment of treason; but no attainer of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

**Punishment for Treason.** — Congress declared by law in 1790 the punishment of treason to be death by hanging. In 1862 another law was passed making the punishment death or at the discretion of the court imprisonment for five years and a fine of ten thousand dollars. The words attainer and attainted are in this clause used in the sense of conviction and convicted.

In former times if a father were convicted of treason in the life-time of the grandfather, the children could not inherit any property from the grandfather, this property all being forfeited to the government, thus working injury to the innocent children and their descendants. To quote Mr. Madison in the Federalist — "The Convention have restrained Congress from extending the consequences of guilt beyond the person of its author."

## CHAPTER XI.

### DUTIES OF THE UNITED STATES TO THE STATES, AND DUTIES OF EACH STATE TO THE OTHER STATES.

The first three articles of the Constitution which we have just discussed, treat of the composition, power and duties of Congress, the President and the courts, in whom are respectively vested the legislative, executive and judicial functions.

The remaining articles treat of some of the rights of the states, and of the citizens, also of the duties of the states to one another and to citizens.

## ARTICLE IV.

*Section 1.* "Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress, may by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof."

**Public Acts of the State.** — The public acts of a state are the laws enacted by its legislature. The Legislature of Colorado has enacted that the legal rate of interest in the State is eight per cent. A judgment obtained on a note made in Colorado with interest at the legal rate, could be collected in New York State, if the maker lived and owned

property in that State, although the legal rate in New York is only six per cent, because New York must give "full faith and credit" to the "public acts and judicial proceedings" of Colorado.

**A Judgment.**—When one man has a claim against another for money or other property and sues for it in a state court, the decision of the court is called a judgment and is a record of that court. By this clause every other state in the Union is compelled to recognize this judgment without any other trial. Congress has enacted that this record shall be proved by the judge and the clerk of the court witnessing it under the seal of the court.

*Section 2. Clause 1.* "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

This clause means that a citizen of New Jersey or of any other state travelling in New York shall have every privilege that a citizen of New York State has. In other words, no state can impose any hardships on a citizen of the United States because of the fact that the citizen is not a resident of that particular state.

*Clause 2.* "A person charged in any State with treason, felony or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State, from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime."

**Requisition Papers.**—In 1793 Congress passed a law which in substance provided that the no. copy of the title from which the owner of person held shall make requisition on the procurator of the title to which the person belongs. The requisition must be accompanied by paper bearing the name upon it the owner, and the proof that he is a fugitive from justice. When these papers are correct, the owner of is delivered to the title which he held, there to be treated according to the law of that state.

**Chancery.**—“No person held to service or labor in one State under the law of the said, escaping into another, shall, in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered upon claim of the party to whom each service or labor may be due.”

This clause refers to slavery and, as slavery was abolished by the thirteenth amendment, the clause be not now a part of our law.

**Section 3. Clause 1.**—“New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States;

without the consent of the legislatures of the States concerned, as well as of the Congress.”

**Marshall's Case.**—The first State admitted into the Union was Vermont, in 1791. Vermont was at one time a part of

New York and New Hampshire, and was not admitted until the legislatures of these states gave their consent.

*Clause 2.* "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State."

**Authority Over Territories is Vested in Congress.**—All the territory outside the limits of the original thirteen states eventually came under the control of Congress, and until this became populous enough to be admitted as states, it had to be regulated by some authority. By this clause this authority was vested in Congress. It will be noted that authority over territories is vested in Congress, *not* in the people of the territory.

Congress accepted the Ordinance of 1787 as the law governing the Northwest Territory. The important clause in this Ordinance was that slavery should not exist in any state that might be erected out of this territory. This had an important bearing on the history of the United States.

**Disposition of Territory.**—The United States has under this clause given land to soldiers and sailors of the various wars; it has encouraged the settlement of the frontiers, by making the price of large tracts nominal to persons who would make their homes on the land. The liberal policy of the government in this respect has been a great factor in the rapid growth of the country.

The Government has promoted the building of railroads across wild and unsettled regions by giving land to the railroad companies.

Acting under the powers given it by this clause Congress has set aside from the territory of the United States the Yellowstone Park, to be a grand public park for the use and enjoyment of the people forever.

**Government of Territories.**— Congress organizes and establishes the government of the territories. The President and the Senate appoint the governor and judges of the Supreme Court and some other officers. The people of the territory elect the members of the legislature: but all laws passed by the territorial government must be submitted to Congress for final consideration. The Territory of Utah passed laws permitting polygamy, which were nullified by the United States Congress.

The people of a territory elect one delegate to Congress who has the right to speak on measures, but cannot vote.

**Section 4.** “The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature or of the executive (when the legislature cannot be convened) against domestic violence.”

**The United States Protects the States.**— This clause insists that each state shall have a republican form of government. By building forts on the coasts, and organizing

an army and a navy, the government has taken steps to protect the states against invasion.

In the war of 1812 the troops guarded the Canada frontier, and the ships the coast.

In 1894 President Cleveland sent United States troops to Chicago to quell a riot, thus protecting the State of Illinois against domestic violence. He did this, not at the request of the legislature or the executive, but on the ground that it was necessary to protect the United States Mails.

#### ARTICLE V.

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

**Necessity of Making Amendments.**— The makers of the Constitution realized that in the course of time progress would be made in government as well as in all other creations of man, and this progress would demand change in methods. By inserting this clause they provided a way of adding to or changing the Constitution. The final approval of three-fourths of the states is necessary for a change, the majority being large enough to prevent hasty or careless alterations in the Constitution.

Nineteen amendments have been proposed at different times by two-thirds of both Houses, fifteen of which have been ratified by the legislatures of three-fourths of the states and have therefore become part of the Constitution. We shall have reason farther on to consider these amendments.

The forbidding the alteration of the "first and fourth clauses in the ninth section of the first article" has reference to slavery, and has no weight now.

**Equal Suffrage in the Senate.**— The last sentence in this clause, "And that no State without its consent, shall be deprived of its equal suffrage in the Senate," was inserted after considerable opposition in the convention on the last day of the session. And it guarantees forever to each state as long as it desires, its two votes in the Senate.

## ARTICLE VI.

**Clause 1.** "All debts contracted and engagement entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation."

**Foundation of the Credit of the United States.**— We have already referred to the money borrowed by the Continental Congress, while working under the Articles of Confederation, and its inability to repay it. This clause gave to the creditors of the United States a guarantee that the change of the Government from the Articles of Confederation to the Constitution would in no way interfere with the payment of the old obligations and debts of the Government ; and it is also a pledge that treaties and engagements entered into will be carried out.

After the organization of the government, Alexander Hamilton, Secretary of the Treasury, submitted a plan for the payment of these old debts. This plan was adopted by the Government, and thus was made firm the credit of the United States.

*Clause 2.* “This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”

**The Supreme Law of the Land.**— This clause was inserted in order that there might be no doubt as to the supreme law of the land. And the Supreme Court of the United States has exercised this supreme authority, and in many cases has declared unconstitutional and void not only

legislative acts of different states, but also parts of state constitutions.

The State of New Jersey entered into a contract with some Indians as to land occupied by them, abolishing the taxes on their land forever. When the Indians sold their land to other people, the state tried to tax the land. The United States Supreme Court declared this act unconstitutional and void, as it was an act violating the obligations of the old contract with the Indians.

The Dartmouth College case already referred to was another case in which the Supreme Court of the United States declared the unconstitutionality of the law of a state.

*Clause 3.* "The Senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office of public trust under the United States."

It is supposed that the ceremony of taking an oath or making a solemn affirmation appeals to the honor of and all that is best in a man, and thus causes him to act uprightly. Hence all the officers of the different departments of the United States and state governments are required to make oath or affirmation as laid down in this clause.

**State Officers Bound by the Constitution.**— The several state governments are connected with the United States Government, as we can readily see by referring to the clauses in the Constitution denying certain rights and privileges to the United States. For instance, a state legislator would violate his oath if he voted for a law to impose a tax on goods imported from another state into his own, a governor would be untrue to his obligations if he tried to collect such a tax, and a judge would break his pledge in deciding such a case lawful.

We have already seen that in some of the early colonial governments, a religious test was required not only to vote but also to hold public office. These qualifications always led to troubles and bitter feelings, and the last sentence in this clause was inserted to do away with this cause of dissension, in a free government, so far as it applied to holding office.

## ARTICLE VII.

“ The ratification of the Convention of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.”

**Discussion and Ratification of the Constitution.**— How and when the thirteen States ratified the Constitution in accordance with this article we have learned in a previous chapter.

From the time the Constitutional Convention finished its work, September 17, 1787, until its ratification by the conventions of eleven states, nearly a year elapsed.

During this time the Constitution was thoroughly discussed in the state conventions and among the people. The great statesmen of the time made speeches concerning it from the platform, and wrote articles in the press, in which all the ideas contained in this famous document were thoroughly considered.

The most famous of these articles were written by Madison, Hamilton and Jay. These have been collected and published under the name of "The Federalist."

**Bill of Rights.**—In all the discussions we note the fear on the part of the people and the states of giving up to Congress and the Central Government rights and privileges that they thought should be exercised only by the people and the States. And it was often stated that the Constitution contained no Bill of Rights—that is to say, a complete statement of the rights of the people. Hamilton's statement in "The Federalist" in reply to this is, "The truth is, that the Constitution is itself in every rational sense, and to every useful purpose, a Bill of Rights."

As a result of all these discussions, there arose among the people an understanding that Congress would at the first opportunity propose amendments that would include the matters discussed and considered before the ratification.

Accordingly on September 25, 1789, Congress proposed the first ten amendments which were ratified by the States December 15, 1791. These and all other amendments have the same effect as if they had been included in the original Constitution. Let us now consider the clauses of the amendments.

CHAPTER XII.  
THE AMENDMENTS.  
ARTICLE I.

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

At the time this article was drawn, many European countries supported religious establishments and imposed restrictions on those of a different religion than that established by the country. It was fear of similar restrictions that caused the people to insist on this sentence of this article.

Freedom of speech and of the press, as expressed in this article, does not give the right to wrongfully injure the character or business of persons by words, either spoken or written.

The right of the people peaceably to assemble, and the right of petition, are regarded as rights necessary to the preservation of liberty; and, consequently, this safeguard was placed here.

## ARTICLE II.

**"A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."**

The militia organization has been previously explained. The individual states exercise some restrictions on the bearing of arms by the people, it being unlawful to carry concealed weapons in many states.

## ARTICLE III.

**"No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law."**

To quarter soldiers means to lodge or place them in a house. It will be remembered that the citizens of the colonies refused to comply with the Quartering Act passed by Parliament ordering them to furnish quarters to the British soldiers in time of peace.

## ARTICLE IV.

**"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."**

**Search Warrant.**—A search warrant is a writing issued by a judge or court upon sworn evidence, alleging violation of the law in the place to be searched and describing the persons or things to be seized in the place, and without this warrant no officer has a right to search a house or premises. Warrants have been issued upon sworn evidence to search places for counterfeit money, arrests have been made, and materials and counterfeit money seized. Without a warrant, however, the officers could not lawfully enter such premises against the wishes of the owner.

#### ARTICLE V.

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

The rights enumerated in this article are all common law rights in England, rights that gradually grew into the judicial system of England.

**A capital crime** is one punishable with death; **infamous crimes** are those punishable with long terms of imprisonment.

**The Grand Jury.**—A grand jury consists of a number of men chosen by an officer of the court from among the citizens; the number must be not less than twelve nor more than twenty-three, twelve of whom must agree in order that a presentment or indictment may be found.

**Presentments and Indictments.**—A presentment is found by a grand jury on its own information. An indictment is an accusation against a person, drawn by a government officer, called the District Attorney. The indictment must clearly charge the time, place, and nature of the offense, so that the accused may have full notice of the charge, and be able to defend himself intelligently when tried before the petit jury.

When a presentment is made by a grand jury the proper court officer must draw an indictment.

It is the duty of the grand jury to examine all indictments, hear all evidence in each case, and if they believe the charge true they indorse on the indictment "A true bill," and the accused person is held for trial by a trial jury. If on the other hand the grand jury do not consider that the evidence is sufficient to convict, they indorse the indictment "Not found," and the accused is released. He may, however, be indicted a second time.

The cases in this article which are excepted from indictment are, as is readily understood, in the department of

military justice, and are tried by court-martial, which proceeding has been previously described.

**Jeopardy of Life or Limb.**—“No person shall be twice put in jeopardy of life or limb for the same offense,” means that a person after being tried by a trial jury and found not guilty shall not be again tried for the same offense. The distinction between an indictment and a trial will here be noted — a person can be indicted more than twice, as indicting is not considered putting life and limb in jeopardy.

If a trial jury disagree, there has been no jeopardy of life or limb, and another trial is held. A convicted person has a right to appeal for another trial, if he thinks mistakes have been made in the first one ; but in a case of a verdict of “not guilty,” no matter how many mistakes may have been made in the trial, the accused can not again be tried.

**Protection of Witnesses.**—In ancient times persons were compelled even by torture to be witnesses against themselves. As men advanced in civilization, they realized the injustice and wickedness of these practices, and it became a part of the law that no man could be compelled to testify against himself ; and now it is unlawful to compel a witness to say anything that would tend to criminate him or even disgrace him before his fellow-men.

By “due process of law,” in this article, is meant regular indictment and trial by jury, as just explained.

**Right of Eminent Domain.**—It sometimes becomes necessary for the government to take private property for

public buildings, fortifications, national cemeteries, dock-yards, military and naval schools, and even post roads. But this property cannot be taken without paying the owner. If the government and the owner cannot agree upon the price, a number of men acting as a jury decide on the value of the property, which must be accepted by the owner.

This right of the government to take private property for public use on payment of just compensation is called the "right of eminent domain."

## ARTICLE VI.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense."

**Protection of the Accused in Criminal Prosecution.**—A person charged with a crime can be confined in a prison before his trial. This article provides that he shall not remain long in confinement before he is proved either guilty or innocent. Congress, as we have seen, divided the United States by law into judicial districts; and the accused must be tried in the one in which the crime was

committed, in order that he may the more readily obtain assistance and evidence. The indictment informs the accused of the nature of his offense and, the trial being public, he is confronted with the witnesses against him. The part of Article VI. we have just discussed is derived from the old common law. The last sentence of this article is part of the English Statute Law. A witness whose evidence is desired at court is given a paper, called a *subpœna*, ordering him to appear at a stated time. Should he not obey this order, he may be arrested and held a prisoner till he has given his evidence, and may also be further punished by the court.

The *subpœna* is issued by an officer of the court, generally by one of the lawyers. If the accused is too poor to hire a lawyer, the court may assign a lawyer to defend him at the expense of the government. A lawyer so assigned could be compelled to assume the duty without pay, as lawyers are officers of the court and must obey all its orders.

#### ARTICLE VII.

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States than according to the rules of the common law."

**Trial of Civil Suits by Jury.**—This article refers to civil suits or cases in which one citizen sues another for

money or property; and where the value is over twenty dollars the case must be tried by a trial jury, if one or both parties to the suit desire it. As the jury's duty is to determine the facts and the judge's duty is to determine the law, if the case should be appealed to a higher court, the facts as determined by the jury cannot be re-examined except according to the rules of the common law.

#### ARTICLE VIII.

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

**Bail.**—When a person charged with a crime is arrested and imprisoned he may apply to a judge to release him on bail until the time of his trial. Bail is a pledge of property given by a friend or friends of the accused to the court. If the accused should not appear in the court on the day appointed for the trial, the property pledged is forfeited. This article requires that the pledge given should not be so large that it would be impossible for the accused to obtain it.

Fines are sometimes imposed as a punishment for offenses; these fines must not be out of proportion to the offense.

In olden times such punishments as burning alive, branding with hot irons, putting out the eyes and otherwise maiming the body were made use of. Such cruel and unusual punishments are forbidden by this article.

### ARTICLE IX.

"The enumeration in this Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

### ARTICLE X.

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

**Powers of Government Originally Belonged to States.**—These two clauses show plainly that all rights and powers of government were originally with the states or the people, and only those given to the United States as indicated in the Constitution have been surrendered. All other rights and powers still remain to the people.

**Powers Reserved to the States.**—These rights and powers so reserved are many. The state and people have full control in all matters concerning education. The schools and colleges are in no manner under the jurisdiction of the United States. State laws define many crimes and fix the punishment therefor, regulate marriage and divorce, and have jurisdiction over railroads and canals within their borders. The Erie Canal was built by New York State.

The people in the cities and towns build roads, water-works, schools, libraries and other public buildings, and maintain police and fire departments. These are but a few instances showing the exercise of the rights and powers of the states and the people.

**The Constitution a Compact Between the People and the Central Government.**—In fact we shall learn as we proceed, that the Constitution is a compact or agreement between the people and the central government, whereby such rights and powers are delegated to the central government as will give it a place among nations of the earth and enable it to maintain that place against all attacks from without and dissensions from within ; and at the same time the Union is enabled to keep pace with the march of civilization by developing the natural advantages of the country for the benefit of all the states and all the people.

#### ARTICLE XI.

“ The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.”

This article was explained when we discussed Section 2, Clause 1, of Article III. of the Constitution.

**Equity.**—Equity is that branch of jurisprudence that goes beyond the strict construction of documents that the law generally gives ; equity is the handmaid of law in that it assists in the rendering of true rather than technical justice.

We can illustrate this as follows : A man may borrow ten thousand dollars on a house worth fifteen thousand dollars, giving a pledge, called a mortgage, for the whole house, that at a certain time the money will be paid. If the money is

not paid on time the lender may sue for it, recover judgment, and the house must be sold to repay him. If the house brings fifteen thousand dollars, equity will not permit him to keep it all, only such amount as is legally due him.

This is equitable justice, as it is right that the lender should receive only that which belongs to him, and the borrower should have also his own equity in the house.

## ARTICLE XII.

" The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted: The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such a majority, then from the

persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death, or other constitutional disability, of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators; and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States."

This article was fully explained when we considered the manner of electing the President and Vice-President in Clause 2, Section 1, Article II., of the Constitution.

### ARTICLE XIII.

*Section 1.* "Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

*Section 2.* "Congress shall have power to enforce this article by appropriate legislation."

This article was adopted in 1865 and abolished slavery throughout the United States.

### ARTICLE XIV.

*Section 1.* "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

This section was passed to define the civic position of the emancipated slaves as well as for their protection.

*Section 2.* "Representatives shall be apportioned along the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

We have learned that the states determine who may be voters; this section provides that when a state for any cause except one of a treasonable or criminal nature, prevents any number of male citizens over twenty-one from voting that state shall be deprived of exactly that number in the count for representatives in Congress.

*Section 3.* "No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State,

who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability."

This section refers to those officers of the United States and state governments, who aided the Confederates during the Civil War. Since the adoption of this amendment the disabilities have been removed from all the persons on whom they once rested.

*Section 4.* "The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for service in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void."

**Status of Debts of the Civil War.**—The first part of this section not only refers to the debts contracted in the

Civil War, but to all the public debts. The latter part of the section refers to debts and losses of the Confederates and was adopted into the organic law of the land in order to avoid any annoying litigation and law suits.

*Section 5.* "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

This section or any similar section following an article in the Constitution is unnecessary, for it is admitted by all, and the United States Supreme Court has decided that where a right or privilege is given the power to enforce it is also granted as a matter of course.

## ARTICLE XV.

*Section 1.* "The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude."

*Section 2.* "The Congress shall have power to enforce this article by appropriate legislation."

This article was adopted to permit the emancipated colored population to vote; this is the only place in the Constitution or Amendments where the right of the state to determine who may be voters is interfered with.

## CHAPTER XIII.

### STATE GOVERNMENTS.

In 1776 the Continental Congress advised each of the colonies to form a government for itself independent of the Government of Great Britain. The Colonial Governments at this time were of three kinds—Royal, Proprietary and Chartered.

**Royal Governments.**—The Royal Governments were under the immediate control of the Crown. The King of England appointed the governors and some other officers, and the laws passed by the legislature were subject to the revision of the Crown. New Hampshire, New Jersey, North and South Carolina and Georgia were Royal Governments in 1776.

**Proprietary Governments.**—In the Proprietary Governments the proprietors appointed the governors and exercised the function which in the Royal Governments were exercised by the Crown. The Government of Great Britain was, however, considered as the sovereign power of these, as well as of the Royal colonies. Pennsylvania, Maryland and Delaware were Proprietary Governments until the Revolution.

**Chartered Governments.**—When the Revolution broke out there were three colonies organized under charters

granted by the English Government: Massachusetts, whose charter provided that the governor should be appointed by the Crown, but the legislature and other officers should be elected by the people; Connecticut and Rhode Island, whose charters provided for the election of all the officers by the people. The charters of these two colonies were so liberal that they remained as the fundamental law of the states long after the organization of the United States Government. Connecticut did not adopt a new Constitution until 1818 and Rhode Island was governed under the old charter until 1842, when a new state Constitution was adopted.

**State Constitutions.**—In accordance with the suggestion of the Continental Congress all the colonies except Connecticut and Rhode Island organized new governments by adopting state Constitutions. All the Constitutions have been materially changed since. The new states that have been admitted into the Union have adopted Constitutions approved by the United States Government. Each State in the Union now has a Constitution in accord with the Constitution of the United States.

If we examine these state Constitutions we shall learn that they embody the same principles of government as are found in the United States Constitution. Each of them divides the state government into three functions—the legislative, the executive and the judicial.

**The State Legislature.**—The legislative or law-making body of the state consists of two branches, the upper house,

called a Senate, and the lower house, generally called a House of Representatives. The lower house is the more numerous branch. The term of service varies in different states. In New York State the senators serve two years, the members of the lower house one year. In Massachusetts, the members of both houses serve the same period—one year. The members of the state legislature are elected by the voters of the state, the state being for this purpose divided into senate districts and legislative districts, all the senate districts having as near as may be equal population, and all legislative districts having likewise equal population. Thus New York State is divided into fifty senate districts and one hundred and fifty assembly districts. In this state the lower branch is known as the Assembly.

Each branch of the legislature is, in nearly all the states, the judge of the returns and qualifications of its own members. It elects its own officers, whose duties are the same as the duties of the officers of the corresponding houses of Congress. The lieutenant-governor, where there is one, is presiding officer of the state Senate, as the Vice-President is presiding officer of the United States Senate.

**The Governor, the State Executive Officer.**—The supreme executive officer of the state is the governor who is elected by the voters of the state. The term of service varies in the different states from one year to four years. Most of the states also elect a lieutenant-governor having the same qualifications as the governor, who succeeds the latter officer in case of death, resignation or disability.

The qualifications of all state elective officers differ in different states, as to age, time of residence and citizenship.

**The Making of State Laws.**—The state legislatures pass laws in a manner similar to the procedure of the United States Congress—the bill being passed by a majority of each house, and then being signed by the governor. In nearly all the states the governor has a veto power which may be overcome by a two-thirds vote of both houses. Each house, as in Congress, has standing committees for the consideration of bills coming under the department for which the committee is appointed. Among these committees we may mention Committee on Cities, Committee on Education, Committee on Canals, Committee on Insurance, Committee on Rules, and Committee on Railroads. The name of each committee indicates its duties.

**Heads of Department of State Governments.**—We have seen that in the United States Government the President with the Senate appoints the Secretary of State, and other heads of the executive departments. In the state governments some of these heads of department are elected. In most of the states the following are elected: Secretary of State, Treasurer, Auditor, Attorney-General. The executive officers who are not elected are appointed by the governor with the advice and consent of the state Senate, except in a few states where other provisions are made for the confirmation of appointments. In Massachusetts appointments are confirmed by the Governor's Council, a board of nine men elected each year by the voters.

In most of the states the governor has the power of pardoning, except in cases of impeachment. Those states that have not given the pardoning power to the governor have reposed this power in the hands of a board of men designated by law for this purpose.

The power of impeachment of state officers is with the lower and more numerous branch of the state legislature, and the impeachments are tried by the state Senate or by the Senate jointly with the highest state court.

**The Judicial Function of a State.**—The Constitution of each state provides for a Supreme Court and other inferior courts. In most of the states the judges are selected by the people, those of the higher courts for long terms. In some states the judges are appointed for life by the governor; in others the judges are elected by the legislature. In Massachusetts the judges are appointed for life; in New York State the term of a Supreme Court judge, and also of a judge of the Court of Appeals, is fourteen years. These terms, whether for life or for a long period of time, are established in order that the judges may be entirely free from political influence of any nature, as far as a reëlection is concerned.

It is a general principle in nearly all the states that no person can hold more than one public office at the same time.

**Amendment of State Constitution.**—As the Constitution of the United States is from the people, so the Constitution of each state is the creation of the people, and in no state can an act of the state legislature amend the

state Constitution. But each state Constitution provides for its amendment. The general principle is that the amendment must be first passed by the state legislature, and then submitted to the voters for their sanction. But in some states the amendment may originate in a convention called for that purpose. Each state Constitution contains a Bill of Rights, which is an assertion and enumeration of the people's rights, of which they are not to be deprived by any persons who may be elected or appointed to office.

**Rights of Citizens of a State.**—These rights are about the same as those enumerated in the United States Constitution, some of which we may repeat here; *viz.*, the writ of *habeas corpus* shall not be suspended except when public safety requires it. No citizen shall be deprived of any rights except by the law of the land. The right of trial by jury shall remain inviolate. Religious liberty is guaranteed. Excessive bail shall not be imposed. The rights of private property are maintained. All rights of a person accused of a crime are maintained, as in the United States Constitution. Freedom of speech and of the press is maintained. The right to assemble and petition shall not be infringed. Treason is defined. Search warrants are required in order to enter and search a house.

## CHAPTER XIV.

### USE OF LAWFUL POWERS BY A STATE GOVERNMENT.

We have now learned that the machinery for carrying on a state government is very similar to that adopted and used by the United States Government. Let us now consider what the state does with this machinery. The United States Constitution says in substance that the states can do all those things that they have not empowered the United States to do, also the states can do all those things that the United States Constitution does not forbid them to do. We readily see then that the states have not given up, nor have they been forbidden powers in the matters which we will now take up and explain separately.

**State Taxes.**—The money necessary to keep this state government machinery going is raised by taxing the people. No state can tax imports, exports, tonnage, or United States bonds, the latter being by United States law free from taxation. The states practically tax all other property, including lands with the buildings thereon, called real property, and all movable property, animate and inanimate, called personal property. Some states grant licenses to conduct certain forms of business, for which they collect large sums in fees. Some states allow the power of granting licenses to remain with the city or town government. Some states tax the property left by persons

at death; this is called an inheritance tax. All states tax corporations whose headquarters are in the state.

**Corporation.**—A corporation is a body of men joined together to act as one for accomplishing business ends, as building and conducting transportation lines, working mines or plantations, carrying on shipyards and other industries that require much capital and many men. These corporations act under a charter given by the state. This charter is in the nature of a law or set of rules for the government of the corporation in all its transactions. Banks are corporations, some acting under United States charter and some under state charter. All banks are taxed by the states. The states exempt from taxation public buildings and lands, as public hospitals, court houses, public parks, etc. Some states also exempt buildings and lands used solely for religious purposes.

**Assessment and Collection of Taxes.**—Each state has some officer or set of officers who superintend the making out of lists of all taxable property in the state. In some of these states these men then put a value on the property and then act as assessors. In other states, as in Massachusetts, the assessment of property is almost entirely left with the cities and towns. Some states are divided into tax districts for the purpose of assessing and collecting taxes. The officer collecting the taxes after they are assessed is called a collector. He makes returns of the money collected to the state treasurer, who pays out the money as authorized by law, the legislature controlling all

appropriations and expenditures. An officer, usually called an auditor, carefully looks over all the items of expense, and all the money expended, and authorizes all payments of money, taking care that no money is unlawfully spent. This officer is sometimes called a comptroller.

Having described the method of raising money, let us see what the state does with it.

**Use of Public Funds.**—The state pays the salaries and expenses of the officers who conduct the state government. It builds prisons and provides for their care. In some states waterways have been opened, as the Erie Canal in New York State. Institutions of learning are built and equipped, public education is looked after, and many states have a system of state police. Institutions for caring for the state poor are provided, the state property is cared for, and expense incurred in preventing the wanton destruction of wild game, fishes, and forests is paid by the state. Each of these matters is under the direction of a state officer or board of officers called superintendents or commissioners.

Thus the state prison commission has charge of the state prisons; it is responsible for the proper conduct of the prisons and right treatment of the prisoners. It must see that all business connected with the prisons is honestly done, and conducted for the best interests of the state.

**Secretary of State of a State Government.**—All these commissioners and heads of departments make reports generally to the secretary of state, whose duty it is to keep and care for them as well as for all the other state records,

except those of the courts. He also has charge of the great seal of the state. It will be noticed that unlike the United States Secretary of State he has nothing whatever to do with foreign countries, nor does he form part of a governor's cabinet, as no such thing exists, the President of the United States being the only officer aided by a cabinet.

**The State Militia.**—The governor is commander-in-chief of the state militia. The officers of the militia, except the governor's aides, and sometimes the general commanding, are elected by the active members of the companies and regiments.

The state furnishes armories, uniforms and equipments to the men, but does not pay them except when called into active service by the governor to quell insurrection or repel invasion.

**Civil Service Commission.**—Many states now have established a civil service commission similar to that of the United States, for the purpose of examining and classifying applicants for certain public offices.

**Quarantine.**—States on the sea board have a quarantine officer or officers, for the purpose of examining all vessels entering their harbors and detaining them if they have aboard persons affected with small-pox, yellow fever, or any other contagious or infectious disease. If this should be the case, the quarantine officers provide for the care of the sick and fumigate the vessel, detaining her until the danger of communicating the contagion to the citizens is passed.

**Pure Food Laws.**—Many states have also passed inspection laws and appointed officers to carry them out ; these laws are intended to secure pure foods to the people, the officers having the right to prevent the sale of foods not fit for human consumption.

Should the inspector require legal advice or assistance he could obtain it from the attorney-general of the state, whose duty it is to care for all law suits to which the state is a party, and to give opinions and aid to such state officers as may request it.

**Financial Institutions.**—The states have jurisdiction of all savings banks and other financial institutions doing business under the state laws. An officer generally called a superintendent of banking has charge of this department. He appoints examiners who, as often as they deem it necessary, examine the books of the saving banks, state banks, trust and loan companies, and other chartered financial institutions. Should they consider the condition of any institution so examined to warrant it, they can close the institution.

In like manner all insurance companies doing business in a state are under state supervision, and must comply with state laws made to guard the people against fraud. This department, like all others, is in charge of a superintendent or board of commissioners.

**Railroads.**—The states exercise a watchful care, generally through a board of railroad commissioners, over the railroads in the state, to see that they conduct their busi-

ness in accordance with the provisions of the charter granted each railroad. If the charter is violated the railroad company is reported to the attorney-general, and he acts as he thinks best for the interests of the state and the people.

**Board of Health.**—Some states have a health commission whose duty it is to gather statistics concerning the health of the people, as well as to take charge of matters concerning the general health, that are not cared for by the towns and cities. Some towns, not wishing to incur expense, avoid taking precautions necessary for the public health, and in such cases complaints are entertained and attended to by the state board of health.

**Board of Canvassers.**—Laws have been passed in all states providing for the counting of votes for the state officers. The boards counting these votes are known as state boards of canvassers, and they usually make their return to the secretary of state.

**Salaries of Officers.**—The salaries of the members of the legislature and state officers are paid from the state treasury. These salaries differ in different states. The salaries of governors vary from fifteen hundred dollars to ten thousand dollars per year. The salary of the governor of Vermont is fifteen hundred dollars, that of the governor of New York is ten thousand dollars.

**Bonds.**—If at any time the state should need money other than is provided by the regular annual taxes, it can,

like the United States, raise it on bonds. These bonds are called state bonds. Some states have been careless in issuing these bonds, and have lost their credit, some even refusing to pay the bonds when due.

**Jurisdiction of State Courts.**—The state courts are organized in a manner similar to the United States Courts, and there is a similarity in the modes of procedure. There are inferior courts all over the state having jurisdiction in cases involving matters of small value, and over small offences in criminal actions. From these courts cases can be appealed to the higher courts.

These higher courts have original jurisdiction in criminal cases, and in actions involving large amounts of money.

Most states have established courts whose sole jurisdiction is over the wills of deceased persons, and matters connected therewith. These courts are known as Surrogate's Courts, Probate Courts, Orphans' Courts, and in Georgia as the Court of the Ordinary.

Above all these courts in all the states, there is the court of last resort, generally known as the Court of Appeals, to which cases from the inferior courts may be appealed.

**Non-Uniformity of Laws in Different States.**—It is obvious that, with a different legislature making laws for each state, the state laws will be far from uniform. Some of these most noticeable differences are the laws regarding interest, the legal rate varying in many states. The state election laws are alike in no two states. In some states capital punishment is unlawful. In no two states is the

rate of taxation the same. As the laws made by each state cover hundreds of pages, we have not time to recount all these differences, many of which are not of material interest. We must remember that, in all matters over which the United States has jurisdiction the laws are uniform throughout all the states. Thus in every state in the Union the tax or duty laid on imports by the United States is the same. Some states have gone further than others in the jurisdiction they assume over children, some compelling the children to go to school until they reach the age of fourteen, and making it an offense against the state to employ a child under that age, while other states have made very little effort to compel the young children to go to school, or to prevent them from working at hard labor in factories the year round.

In those states, having a compulsory education law, there is generally established a department of education in charge of a superintendent, whose duty it is to see that the state laws are complied with; and if cities or towns are neglectful in this matter the state department compels them to do their duty.

## CHAPTER XV.

### COUNTY GOVERNMENT.

The states are subdivided for purpose of local government into counties. In the State of Louisiana the subdivision corresponding to the county is called the parish; this is, however, the only exception to the use of the name county throughout all the states. These counties have only those powers which are conferred on them by the states. Throughout the United States the forms of county government differ very materially. We may, however, roughly divide the different forms of county government into three classes: (1) the New England county government, (2) county government, of which New York counties are a type, and (3) the county government prevailing in most of the southern states.

**County Government in New England.**—In the New England form of county government a body of men known as county commissioners are elected at large by the voters of the county. These men have charge of and are responsible for the court-houses, jails, charitable institutions, and other buildings and property belonging to the county. They have power to borrow money to be used for the expenses of the county. They notify each town and city in the county of the amount of taxes the notified town or city must raise and pay into the county treasury, as its share of county ex-

penses. The county commissioners have powers over county roads. In some of the New England states the county joins with the towns in building highways, and where private land is taken for these highways the commissioners award to the owners the money for land so taken.

**The Sheriff.**—The most important county officer is the sheriff. He is also elected, and his duties are to preserve the peace in the county, attend on and obey the orders of the county courts. He or his deputies serve all warrants and make all arrests and seizures within the county limits, but his powers cease outside of the county. If he should be confronted with a disturbance or mob that he and his deputies could not quell, he could call on the citizens of the county to assist him. Any citizen not obeying him would be arrested and punished. A group of citizens so called and made use of by the sheriff is called a *posse comitatus*. The sheriff gives a bond that he will lawfully perform his duties. He is also to a certain extent a state officer, and has charge of the jails in the county.

**The District Attorney.**—In each county there is elected a district attorney, who is also a state officer. His duty is to prosecute all criminals for crimes committed in the county, and to advise the Grand Jury and other county officers on legal matters in which the county is interested. Sometimes in difficult cases the district attorney is aided by the state attorney-general.

**The County Treasurer.**—A treasurer is elected in each county who gives a bond for the faithful performance of his

duties. He receives all funds of the county and pays them out on warrant of the proper officers.

**Deeds.**—When one man sells a piece of real estate to another, he gives the buyer a piece of paper called a deed, in which the land sold is carefully described; and the fact that the land is sold by the seller to the buyer is set forth, the names of both being written in their respective capacities in the deed. The deed is signed by the seller and his seal is affixed.

**Recording Officers.**—Each county or town has an officer who records these deeds in books provided for the purpose, in order that the people may know who owns the property, and may not be defrauded by purchasing real property from one who does not own it.

In some counties this officer is called a register of deeds. In states in which the deeds are recorded in a town this work is done by the town clerk.

Another recording official is elected in some counties, whose duty is to record wills which are admitted to probate by the court having jurisdiction therefor.

The clerks of the courts, where no other officer is provided for the purpose, keep a record of all judgments and transactions of the courts. All records are as far as possible kept in fire-proof boxes, and carefully watched that none may be altered or stolen. The state courts have jurisdiction in all the counties. In addition to these, some counties have inferior courts from which cases may be appealed to the higher state courts.

**New York Type of County Government.**—In that form of county government of which the New York county is a type, the law making body consists of a body of men called supervisors, each of whom represents a town, or in a city, a ward, of which he is a citizen. Each supervisor is elected by the citizens of the town or ward he represents, and is also a town or city officer. In some large cities the aldermen take the place of the supervisors. The officer in charge of the deeds, mortgages, judgments and other county records is the county clerk, elected by the people. In some large cities there is an officer to record deeds and mortgages, who is known as a register.

Each county in both these forms of government has a town known as the county seat, in which are located the county court house, buildings to contain the records, and other public buildings.

**County Government in the Southern States.**—When the Southern States were settled, the people did not group themselves together in towns, as did the first settlers of New England and New York, but were on large plantations far apart from one another. The county government was therefore independent of all town government, and this form of government is maintained in many of the states to-day. In Virginia a board of officers, called supervisors, is elected by the voters of the county, to attend to the general public affairs of the county, and care for the public property. This board, together with other public officers, look after all matters of local government, including the matter of taxes, there being no town officers as in the other

two forms of county government. The other county officers are elected or appointed for the purpose of assessing property, collecting taxes and holding court. A sheriff is elected to look after the executive department.

These three forms of county government embody all the principles of county government throughout the United States, the form in no two states being exactly alike.

## CHAPTER XVI.

### TOWN GOVERNMENT.

In all the forms of government so far discussed the people do not act for themselves, but the affairs of the government are carried on for them by the representatives they elect. The county government is therefore—as is the United States Government—a representative government. This is because it is impossible for such large groups of people as we find in the United States, states, and counties to meet together and wisely transact business.

**Town Meetings.**—In the towns, however, the number of people is so small that the voters can assemble in one place, and discuss all matters pertaining to the welfare of the town. These assemblies are called town meetings and are held annually, unless called oftener for some special purpose. At these meetings all matters concerning the welfare of the town are discussed by the voters. Every voter, no matter what his station in life, has an opportunity to give his opinions, and advance his arguments.

At these meetings the officers that take charge of the affairs of the town are elected and money for carrying on the town government is appropriated. This money is generally raised by taxing the property, both real and personal, in the town.

In town meetings towns may vote to authorize the issue

of bonds to raise money for public enterprises, as sewers, waterworks, etc. In the town meeting we have the direct in place of the representative form of government, as the people meet together and exercise directly the legislative function of government, the officers they elect and appoint exercise the executive function, and they also in some towns elect justices of the peace, who exercise in some cases the judicial function. The state and county courts have jurisdiction in the towns.

In some of the southern states there is no town government and consequently there is nothing like the direct form of government. As the town is the unit of government in the northern states, the county is the unit in the southern states.

The town officers are three or more selectmen, a town clerk, a treasurer, three or more assessors, a collector, one or more constables, three or more members of the school committee, one or more overseers of the town poor, auditor, election officers, justice of the peace, and road-master. As there is a difference in county government throughout the United States, there is also a difference in the town government, which difference we will note as the duties of the different town officers are described.

**Town Officers.**—The selectmen are elected by the voters, generally annually, and form the executive board of the town, having charge of the police, fire, and street departments, also approving the bills of all departments, which bills are paid by the treasurer. They also borrow money for the town, if authorized to do so by the voters in

town meetings. They appoint all town officers not designated to be elected at town meeting.

In some towns, as in New York, the supervisor performs the duties of the selectmen, and also the duties of a town treasurer.

The town clerk keeps the records of the town, registers all births, deaths, and marriages, acts as clerk at the town meetings, and in some states registers the deeds and mortgages.

The town treasurer receives all moneys from the collector and pays them out on warrants approved by the proper officers.

The assessors carefully make a list of all the property in the town, placing a value thereon; also, they make a list of all the male citizens. In some towns, the male citizens are taxed outright a sum of money per head, called a poll tax.

**Fixing the Tax Rate.**—The following table, condensed from an assessor's report, will show the method used by assessors in arriving at the amount of taxes to be raised by a town, and will also show how they fix the amount each tax-payer is to pay:

#### LIST OF PROPERTY.

Valuation of Personal Property . . .	\$415,305.00
"      " Buildings . . . . .	1,477,478.00
"      " Land . . . . .	<u>938,117.00</u>
Total valuation	\$2,830,900.00

## MONEY TO BE RAISED BY TAXATION.

Town's share of state tax . . . .	\$3,050.00
"    "    " county " . . . .	2,610.00
Money appropriated by the people in town meetings for town expenses .	45,101.30
Total amount to be raised	\$50,761.30

There were counted 1,318 persons who, by law, paid a poll tax of \$2 per head. This makes the sum to be collected by a poll tax \$2,636, which, subtracted from the above total \$50,761.30, leaves \$48,125.30 to be raised by taxing the total amount of property (\$2,830,900.00) in the town.

To find the tax per dollar on the property, we find what per cent \$48,125.30 is of \$2,830,900.00, which is .017; therefore, the tax-payer is required to pay .017 tax on each dollar's worth of property he owns. Thus a man who owns \$2,000.00 worth of property will pay \$34.00 taxes on it.

The collector receives the list of polls and property from the assessors, who also notify him of the tax rate (in our example it is .017, or sometimes called \$17 per thousand), and he then collects the money. If the taxes are not paid by the property owner, the collector may seize and sell the property by process of law.

The constables act as police officers, arresting criminals and people breaking the laws.

The laws regarding members of the school board vary throughout all the states; in some they are elected by the

whole town, in some they are elected by town districts, and in still others by county districts.

Their duties are to provide proper school buildings, teachers, and supplies for the children of their district, and in general to carry out the state law regarding education.

The laws of the different states concerning education vary throughout the Union, some states being more liberal than others in the provision they make for public education.

The overseers of the poor look after those people of the town, who by reason of age or infirmities or disabilities, are unable to care for themselves. The auditor looks over the financial books of the town, and sees that no moneys are spent except such as are authorized by law. In some towns a number of the officers act as a board of audit.

Election officers are elected in some towns, and in others appointed. They receive, sort, and count the ballots, and see that the election of all public officers is carried out according to law.

The board of health makes and enforces rules for the prevention of the spread of contagious and infectious diseases, and also for the prevention of the contamination of the air and drinking water, and in general has control over all matters which concern the public health.

Justices of the peace are elected by the towns in some states, and in others are appointed by the governor. They have jurisdiction in minor cases, and over small offences against the law.

The roadmaster, or as he is called sometimes, the super-

intendent of highways, has charge of the streets, keeping them in order, and open to public traffic. In some towns the selectmen have charge of the streets.

As the population of a town increases, more officers are necessary to carry on the government, and the state then may pass a law, often called the city charter, changing the town government into a city government.

Boston remained a town until it was incorporated a city in 1822. At that time it contained about 50,000 inhabitants.

## CHAPTER XVII.

### CITY GOVERNMENT.

The city government is necessarily representative, as the large population prevents direct government.

**Legislative Function.**—The legislative powers of a city are vested in a common council, sometimes composed of two branches, upper and lower. The members of the upper branch are generally called aldermen, the lower branch councillors. In some cities the legislative department consists only of a board of aldermen. Cities are divided into wards and districts. In some cities the aldermen are elected to represent the wards, and the councillors are elected to represent districts. In other cities the whole body is elected by the voters of the city at large.

The common council can pass laws for the government of the city which do not conflict with the state laws; the laws, however, must be approved by the chief executive officer of the city.

**The Executive Function.**—The chief executive officer of the city is called a mayor, and is elected by the voters. He has the power to veto laws passed by the common council, who, however, may pass them over this veto by a two-thirds vote.

In some cities the mayor appoints the heads of the

executive departments without the confirmation of the common council, while in other cities these appointments can only be made with their consent.

The mayor is responsible for the order and peace of the city, and generally has full charge of the police force, having under him in this department one or more commissioners or superintendents.

**City Officers.**—The other executive officers of a city, some elected and some appointed, are Treasurer, Assessors, Tax Collector, Auditor or Comptroller, Corporation Counsel or City Attorney, Board of Health, Street Commissioners, Fire Commissioner, Water Commissioner, School Commissioners, Civil Service Commissioners, City Paymaster, Dock Commissioners (in a seaport city), Commissioners of Charities and Correction, Bridge Commissioner, and other commissioners or superintendents that may be necessary to keep the complicated machinery of a city government going. The titles of these officers indicate their several duties.

**City Courts.**—Each city has its own city courts for the trial of criminals and civil suits, the judges being elected either at large or by judicial districts. In some cities, magistrates having jurisdiction in petty crimes are appointed by the mayor. These magistrates also have the power of granting warrants. It must be remembered, however, that some states, as Massachusetts, have reserved the right to appoint all judicial officers.

The state may at any time pass laws changing any part

of a city government, provided that in so doing it does not violate either the state or the United States Constitution.

For the purpose of conducting elections, cities are divided into districts, each district having a set of election officers, generally appointed and sworn to do their duty according to the law.

Small towns conduct elections without being thus divided, while large ones are divided into districts or precincts.

In the southern states the county is divided for purpose of election into districts, and these districts are further divided into precincts.

As we have previously learned, there is a great difference in the manner of conducting elections throughout the different states, and when a citizen of one state becomes a citizen of another it is necessary for him before he votes to acquaint himself with the method of voting in that state.

## CHAPTER XVIII.

### ARTICLES OF CONFEDERATION.

On June 11, 1776, Congress resolved that a committee should be appointed to prepare a form of confederation. This committee, appointed the following day, consisted of one member from each state. It reported on July 12, 1776, through John Dickinson, of Pennsylvania, a draft of articles of confederation. These were debated time and time again, and finally adopted November 15, 1777. It was not until March 1, 1781, however, that all the states signed the Articles, thus perfecting the league of states. From the beginning of the war up to March 2, 1781, the Congress exercised sovereign powers under an unwritten constitution, and on that day it met for the first time under a written constitution.

Following is the text :

### ARTICLES OF CONFEDERATION

TO ALL TO WHOM THESE PRESENTS SHALL COME,

*We, the undersigned, Delegates of the States affixed to our names,  
send greeting :*

Whereas the delegates of the United States of America in Congress assembled, did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the Independence of America, agree to certain Articles of Confederation and Perpetual Union,

between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, *viz.*:

*Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.*

ARTICLE I.—The style of this Confederacy shall be, “The United States of America.”

ART. II.—Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ART. III.—The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States—paupers, vagabonds, and fugitives from justice excepted,—shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy

therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any State on the property of the United States or either of them.

If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense.

Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V.—For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each State shall maintain its own delegates in any meeting of the States and while they act as members of the Committee of the States.

In determining questions in the United States in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. VI.—No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with, any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any

State, except such number only as shall be deemed necessary by the United States in Congress assembled, for the defense of such State or its trade; nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State: but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such a State, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ART. VII.—When land forces are raised by any State for the common defense, all officers of or under the rank of Colonel, shall be appointed by the legislature of each State respectively

by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

**ART. VIII.**—All charges of war, and all other expenses that shall be incurred for the common defense, or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the United States in Congress assembled.

**ART. IX.**—The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and

establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Con-

gress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "*well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward:*" provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands and the States which passed such grants, are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures

throughout the United States ; regulating the trade and managing all affairs with the Indians, not members of any of the States ; provided that the legislative right of any State, within its own limits, be not infringed or violated ; establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office ; appointing all officers of the land forces in the service of the United States, excepting regimental officers ; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States ; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction ; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years ; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses ; to borrow money or emit bills on the credit of the United States, transmitting every half-year to the respective States an account of the sums of money so borrowed or emitted ; to build and equip a navy ; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding ; and thereupon the legislature of each State shall

appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled; but if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal except such parts as are above excepted, to lay before the legislatures of the several States.

ART. X.—The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ART. XI.—Canada, acceding to this Confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ART. XII.—All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction

whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII.— Every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this Confederation are submitted to them. And the articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

AND WHEREAS, it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions which by the said Confederation are submitted to them; and that the articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual.

In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord one thousand

seven hundred and seventy-eight, and in the third year of the independence of America.

*On the part and behalf of the State of New Hampshire.*

JOSIAH BARTLETT,

JOHN WENTWORTH, JR.

August 8, 1778.

*On the part and behalf of the State of Massachusetts Bay.*

JOHN HANCOCK,

FRANCIS DANA,

SAMUEL ADAMS,

JAMES LOVELL,

ELBRIDGE GERRY,

SAMUEL HOLTON.

*On the part and behalf of the State of Rhode Island and Providence Plantations.*

WILLIAM ELLERY,

JOHN COLLINS.

HENRY MARCHANT,

*On the part and behalf of the State of Connecticut.*

ROGER SHERMAN,

TITUS HOSMER,

SAMUEL HUNTINGTON,

ANDREW ADAMS.

OLIVER WOLCOTT,

*On the part and behalf of the State of New York.*

JAMES DUANE,

WILLIAM DUER,

FRANCIS LEWIS,

GOUVERNEUR MORRIS.

*On the part and in behalf of the State of New Jersey,*

*Novr. 26, 1778.*

JOHN WITHERSPOON,

NATHANIEL SCUDDER.

*On the part and behalf of the State of Pennsylvania.*

ROBERT MORRIS,

WILLIAM CLINGAN,

DANIEL ROBERDEAU,

JOSEPH REED,

JONATHAN BAYARD SMITH,

22d July, 1778.

*On the part and behalf of the State of Delaware.*

THOMAS M'KEAN,  
Feby. 12, 1779.

JOHN DICKINSON,  
May 5, 1779,  
NICHOLAS VANDYKE.

*On the part and behalf of the State of Maryland.*

JOHN HANSON,  
March 1, 1781,

DANIEL CARROLL  
March 1, 1781.

*On the part and behalf of the State of Virginia.*

RICHARD HENRY LEE,  
JOHN BANISTER,  
THOMAS ADAMS,

JOHN HARVIE,  
FRANCIS LIGHTFOOT LEE.

*On the part and behalf of the State of North Carolina.*

JOHN PENN,  
July 21, 1778.

CORNELIUS HARTNETT.  
JOHN WILLIAMS.

*On the part and behalf of the State of South Carolina.*

HENRY LAURENS,  
WILLIAM HENRY DRAYTON,  
JOHN MATHEWS,

RICHARD HUTSON,  
THOMAS HAYWARD, JR.

*On the part and behalf of the State of Georgia.*

JOHN WALTON,  
24th July, 1778.

EDWARD TELFAIR,  
EDWARD LANGWORTHY.



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## GLOSSARY

**ADMIRALTY.** That branch of law which deals with maritime cases and offences. (Admiralty Court.)

**AFFIDAVIT.** A written declaration upon oath; a statement of facts in writing signed by the person making the affidavit, and sworn to or confirmed by a declaration before an authorized officer, such, for instance, as a notary public or a commissioner of deeds.

**ALIEN.** A foreigner; one born in or belonging to another country who has not acquired citizenship by naturalization.

**AMBASSADOR.** A diplomatic agent of the highest rank, employed to represent officially one prince or state at the court or to the government of another.

**ARREST OF JUDGMENT.** The staying or stopping of a judgment after verdict, for causes assigned. Courts have at common law power to arrest judgment for intrinsic causes appearing upon the face of the record, as when the declaration varies from the original writ, when the verdict differs materially from the pleading, or when the case laid in the declaration is not sufficient to found an action upon.

**ARTICLES OF CONFEDERATION.** The compact or constitution adopted by the Continental Congress in 1777, and ratified by the separate colonies within the four years next succeeding. On March 4, 1789, it expired by limitation under the provisions of the present Constitution.

**ATTAINDER, BILL OF.** A bill passed by Parliament for the attaint of any person. By this process condemnation to death could be secured in a brief manner and without the production of evidence.

**BANKRUPTCY LAW.** The United States bankruptcy law now in force went into effect July 1, 1898.

**BILL OF CREDIT.** Paper issued by the authority and on the faith of a nation to be circulated as money. The Constitution provides (Article I., Section 10) that no State shall emit bills of credit, or make anything but gold and silver coin a tender in payment of debts.

**CAVEAT.** According to United States patent laws, a caveat is a description of some invention, designed to be patented, lodged in the patent office before the patent is applied for. This operates as a bar to the issue of letters patent to any other person respecting the same invention. A caveat is good for one year, but may be renewed.

**CHARTER.** In colonial days the crown granted certain rights and privileges to an individual or a group of colonists. As this was written it was called a charter, from the Latin *chartula*, meaning a little writing. In American law a charter is a written instrument from the sovereign power to a municipality or other corporation conferring certain rights and privileges. For instance, the city of New York has a charter from the State government at Albany; Chicago, one from her State government at Springfield, and San Francisco, one from Sacramento. The State also grants charters to insurance companies, railroad, bank, dry goods and other corporations.

**COPYRIGHT.** Corresponds to the patent of an invention, and is a right given by law to the writer of a book, play, or musical composition, or to the originator of maps, charts, or engravings, or to his assignee. In the United States the term is twenty-eight years, with the privilege of renewal for fourteen years.

**COMMISSION.** A written certificate signed by the executive or other proper official, appointing some person to office or conferring an authority to the holder thereof.

**CONSUL.** A commercial agent of the government, appointed by the President and confirmed by the Senate, residing in a foreign country to look after the commercial rights and privileges of this country and its individual citizens resident in the same country with him.

**CONTINENTAL CONGRESS.** The term "continental" was used in contradistinction to "provincial," the former indicating the general assembly in which all the States of the Union were represented by delegates during the Revolution, the latter referring to the legislative body of a state, colony, or province.

**EMBARGO.** An order of the government prohibiting the sailing of ships of commerce from any or all of its ports.

**EXEQUATOR.** A written official recognition of a consul or commercial agent issued by the government to which he is accredited and authorizing him to exercise his powers.

**GERRYMANDER.** So-called from Elbridge Gerry, Governor of Massachusetts in 1812. For purposes of election a State is divided into districts corresponding to the number of representatives the State is entitled to send to Congress. These districts are sometimes made out by the legislature so as to secure the greatest number of them to the party which lays out the districts. In 1812 the Massachusetts legislature, having a Federalist minority, redistributed the districts, so that a district in Essex County resembled a dragon in shape. Gilbert Stuart, the painter, seeing a map of this district and noting its contour, added a head, wings, and claws, saying, "That will do for a salamander." "Better say a Gerrymander!" retorted a Federalist standing near.

**INJUNCTION IN LAW.** A judicial process or order requiring the person to whom it is directed to do or refrain from doing a particular thing.

**INTERRED.** Confined within fixed or prescribed limits; compelled to remain in a locality without permission to leave it.

***Ipo Facto.*** By the fact itself.

**JURISPRUDENCE.** The science of law.

**LEGAL TENDER.** Currency which can lawfully be used in paying a debt.

**MAGNA CHARTA.** The great charter of the liberties of England, signed and sealed by King John of Lackland, in a conference between him and his barons at Runnymede on the Thames, June 15, 1215. Its most important articles are those which provide that no freeman shall be taken, or imprisoned, or proceeded against, except by the lawful judgment of his peers or in accordance with the laws of the land, and that no scutage or aid shall be imposed on the kingdom (except

certain feudal dues from tenants of the crown) unless by the common council of the kingdom. The remaining and greater part of the charter is directed against abuses of the king's power as feudal superior. Some of its provisions constitute the Bill of Rights set forth in our federal and state constitutions.

*Mandamus* (we command). A writ issuing from the superior court, directed to an inferior court, an officer, a corporation, or other body, requiring the person or persons addressed to do some act therein specified, as being within their office and duty, as to admit or restore a person to an office or franchise, or to deliver papers, affix a seal to a paper, etc.

ORDINANCE OF 1787. Adopted by the Continental Congress, then in session in New York City, July 18, 1787, the full title of the act being: "An ordinance for the government of the territory of the United States northwest of the Ohio River." The territory included the present States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. The ordinance prohibited slavery, provided for the eventual admission of portions of the territory as States of the Union and established a territorial government, which has ever since been used as a model in the organization of new territories.

PARLIAMENT, ENGLISH. Composed of House of Lords and House of Commons. The House of Lords consists of 4 princes of the blood, 2 archbishops, 24 bishops, 516 English Peers, 16 Scotch Representative Peers, and 28 Irish Representative Peers. Total, 590. Composition of the House of Commons: England has 465 seats; Wales, 30 seats; Scotland, 72 seats; Ireland, 103 seats. Total, 670 members.

PLAINTIFF. The person who brings a suit before a tribunal for the recovery of a claim; opposed to defendant.

PLURALITY OF VOTES. The number by which the votes cast for the candidate who receives the greatest number exceed the votes cast for the candidate who receives the next greatest number, when there are more than two candidates and no one candidate receives a majority of votes.

*Posse Comitatus.* The power of the county. The body of men which the sheriff is empowered to call into service to aid him in the execution of the law, as in case of rescue, riot, etc. It includes all male persons above the age of fifteen.

*Prima Facie.* At first appearance.

**PRIMARY.** An assembly of a section of a political party, generally for the purpose of naming delegates to a convention, or nominating candidates to be voted for at the regular elections. In some states a primary is called a caucus. In New York State there is a Primary Law providing that some cities and towns must, and many others may, permit those voters who wish, to enroll as members of one political party, and only voters so enrolled may take part in primaries held during the ensuing year by such political party.

**PRIMOGENITURE.** Norman law of descent to the eldest son. The principle by which the oldest son of a family succeeds to the father's real estate in preference to, and to the absolute exclusion of, the younger sons and daughters.

**PROVINCIAL CONGRESS.** In 1774 the English Parliament appointed General Gage military governor of Massachusetts. The colonists ignored Gage, and the townships elected delegates to meet in a Provincial Congress. The president of the Congress was the chief executive officer of the commonwealth, and there was a small executive council known as, "The Committee of Safety."

**QUORUM.** The number of members of any constituted body of persons whose presence at or participation in a meeting is required to render its proceedings valid, or to enable it to transact business legally.

**RECORDS OF A COURT.** The formal, written reports of the proceedings of the Court drawn up by the regular officers of the same.

**REFERENDUM.** The right to approve or reject by popular vote a measure passed upon by a legislature.

**REPRESENTATIVE GOVERNMENT.** A government conducted by persons chosen by the people governed.

**SOLVENT.** Able to pay all just debts.

**STATUTE.** An ordinance or law; specifically, a law promulgated in writing by a legislative body; an enactment by a legislature.

**STATUTE OF LIMITATIONS.** A law which limits the time within which an action may be brought.

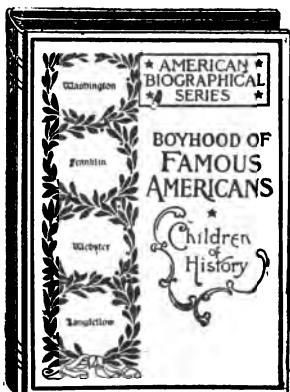
**TORT.** A wrong, such as the law requires compensation for in damages.

**Viva Voce.** Orally.

**WARRANT.** In law a written authorization by a magistrate to an officer to make an arrest, a seizure, or a search, or do other acts incidental to the administration of justice.

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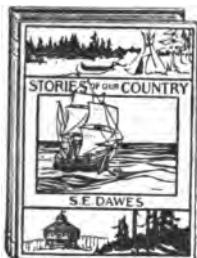
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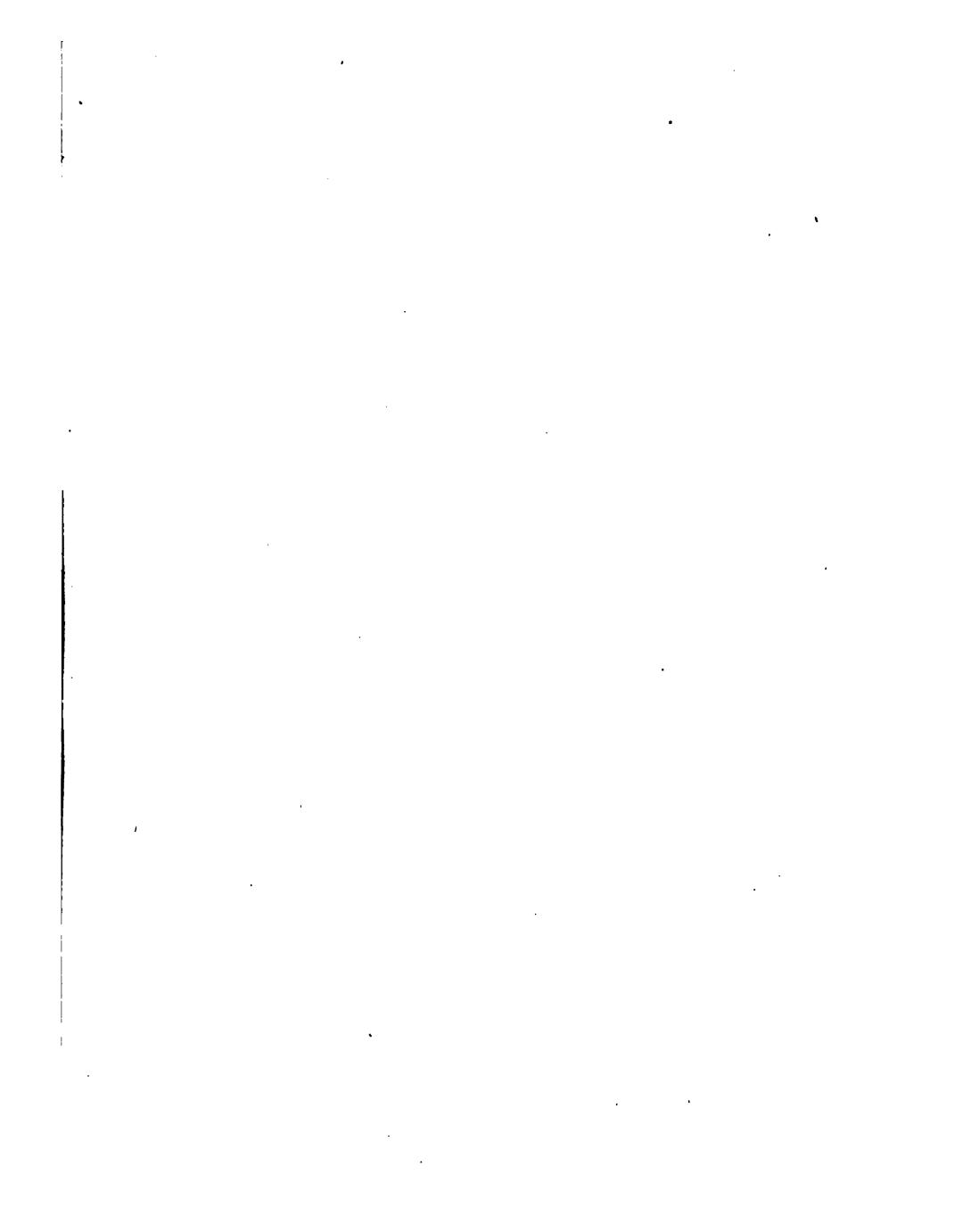
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